

NOVEMBER 17, 2005

**[CONFERENCE REPORT]**

In lieu of the matter proposed to be inserted by the Senate Amendment to the text of H.R. 3199, insert the following:

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the  
3 “USA PATRIOT Improvement and Reauthorization Act  
4 of 2005”.

5 (b) **TABLE OF CONTENTS.**—The table of contents for  
6 this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—USA PATRIOT IMPROVEMENT AND REAUTHORIZATION  
ACT**

Sec. 101. References to, and modification of short title for, USA PATRIOT Act.

Sec. 102. USA PATRIOT Act sunset provisions.

Sec. 103. Extension of sunset relating to individual terrorists as agents of foreign powers.

Sec. 104. Section 2332b and the material support sections of title 18, United States Code.

Sec. 105. Duration of FISA surveillance of non-united States persons under section 207 of the USA PATRIOT Act.

Sec. 106. Access to certain business records under section 215 of the USA PATRIOT Act.

Sec. 106A. Audit on access to certain business records for foreign intelligence purposes.

Sec. 107. Enhanced oversight of good-faith emergency disclosures under section 212 of the USA PATRIOT Act.

Sec. 108. Multipoint electronic surveillance under section 206 of the USA PATRIOT Act.

Sec. 109. Enhanced congressional oversight.

Sec. 110. Attacks against railroad carriers and mass transportation systems.

Sec. 111. Forfeiture.



- Sec. 112. Section 2332b(g)(5)(B) amendments relating to the definition of Federal crime of terrorism.
- Sec. 113. Amendments to section 2516(1) of title 18, United States Code.
- Sec. 114. Delayed notice search warrants.
- Sec. 115. Judicial review of national security letters.
- Sec. 116. Confidentiality of national security letters.
- Sec. 117. Violations of nondisclosure provisions of national security letters.
- Sec. 118. Reports on national security letters.
- Sec. 119. Audit of use of national security letters.
- Sec. 120. Definition for forfeiture provisions under section 806 of the USA PATRIOT Act.
- Sec. 121. Penal provisions regarding trafficking in contraband cigarettes or smokeless tobacco.
- Sec. 122. Prohibition of narco-terrorism.
- Sec. 123. Interfering with the operation of an aircraft.
- Sec. 124. Sense of Congress relating to lawful political activity.
- Sec. 125. Removal of civil liability barriers that discourage the donation of fire equipment to volunteer fire companies.
- Sec. 126. Report on data-mining activities.
- Sec. 127. Sense of Congress.
- Sec. 128. PATRIOT section 214; authority for disclosure of additional information in connection with orders for pen register and trap and trace authority under FISA.

## TITLE II—TERRORIST DEATH PENALTY ENHANCEMENT

- Sec. 201. Short title.

### Subtitle A—Terrorist penalties enhancement Act

- Sec. 211. Death penalty procedures for certain air piracy cases occurring before enactment of the Federal Death Penalty Act of 1994.
- Sec. 212. Postrelease supervision of terrorists.

### Subtitle B—Federal Death Penalty Procedures

- Sec. 221. Elimination of procedures applicable only to certain Controlled Substances Act cases.
- Sec. 222. Counsel for financially unable defendants.

## TITLE III—REDUCING CRIME AND TERRORISM AT AMERICA'S SEAPORTS

- Sec. 301. Short title.
- Sec. 302. Entry by false pretenses to any seaport.
- Sec. 303. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information.
- Sec. 304. Criminal sanctions for violence against maritime navigation, placement of destructive devices.
- Sec. 305. Transportation of dangerous materials and terrorists.
- Sec. 306. Destruction of, or interference with, vessels or maritime facilities.
- Sec. 307. Theft of interstate or foreign shipments or vessels.
- Sec. 308. Stowaways on vessels or aircraft.
- Sec. 309. Bribery affecting port security.
- Sec. 310. Penalties for smuggling goods into the United States.
- Sec. 311. Smuggling goods from the United States.



#### TITLE IV—COMBATING TERRORISM FINANCING

- Sec. 401. Short title.
- Sec. 402. Increased penalties for terrorism financing.
- Sec. 403. Terrorism-related specified activities for money laundering.
- Sec. 404. Assets of persons committing terrorist acts against foreign countries or international organizations.
- Sec. 405. Money laundering through hawalas.
- Sec. 406. Technical and conforming amendments relating to the USA PATRIOT Act.
- Sec. 407. Cross reference correction.
- Sec. 408. Amendment to amendatory language.
- Sec. 409. Designation of additional money laundering predicate.
- Sec. 410. Uniform procedures for criminal forfeiture.

## TITLE V—MISCELLANEOUS PROVISIONS

- Sec. 501. Residence of United States attorneys and assistant United States attorneys.
- Sec. 502. Interim appointment of United States Attorneys.
- Sec. 503. Secretary of Homeland Security in Presidential line of succession.
- Sec. 504. Bureau of Alcohol, Tobacco and Firearms to the Department of Justice.
- Sec. 505. Qualifications of United States Marshals.
- Sec. 506. Department of Justice intelligence matters.
- Sec. 507. Review by Attorney General.

TITLE VI—SECRET SERVICE

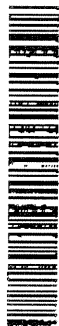
- Sec. 601. Short title.
- Sec. 602. Interference with national special security events.
- Sec. 603. False credentials to national special security events.
- Sec. 604. Forensic and investigative support of missing and exploited children cases.
- Sec. 605. The Uniformed Division, United States Secret Service.
- Sec. 606. Savings provisions.
- Sec. 607. Maintenance as distinct entity.
- Sec. 608. Exemptions from the Federal Advisory Committee Act.

TITLE VII—COMBAT METHAMPHETAMINE EPIDEMIC ACT OF 2005

- Sec. 701. Short title.

### Subtitle A—Domestic regulation of precursor chemicals

- Sec. 711. Scheduled listed chemical products; restrictions on sales quantity, behind-the-counter access, and other safeguards.
- Sec. 712. Regulated transactions.
- Sec. 713. Authority to establish production quotas.
- Sec. 714. Penalties; authority for manufacturing; quota.
- Sec. 715. Restrictions on importation; authority to permit imports for medical, scientific, or other legitimate purposes.
- Sec. 716. Notice of importation or exportation; approval of sale or transfer by importer or exporter.
- Sec. 717. Enforcement of restrictions on importation and of requirement of notice of transfer.
- Sec. 718. Coordination with United States Trade Representative.



## Subtitle B—International regulation of precursor chemicals

- Sec. 721. Information on foreign chain of distribution; import restrictions regarding failure of distributors to cooperate.
- Sec. 722. Requirements relating to the largest exporting and importing countries of certain precursor chemicals.
- Sec. 723. Prevention of smuggling of methamphetamine into the United States from Mexico.

## Subtitle C—Enhanced criminal penalties for methamphetamine production and trafficking

- Sec. 731. Smuggling methamphetamine or methamphetamine precursor chemicals into the United States while using facilitated entry programs.
- Sec. 732. Manufacturing controlled substances on Federal property.
- Sec. 733. Increased punishment for methamphetamine kingpins.
- Sec. 734. New child-protection criminal enhancement.
- Sec. 735. Amendments to certain sentencing court reporting requirements.
- Sec. 736. Semiannual reports to Congress.

## Subtitle D—Enhanced environmental regulation of methamphetamine byproducts

- Sec. 741. Biennial report to Congress on agency designations of by-products of methamphetamine laboratories as hazardous materials.
- Sec. 742. Methamphetamine production report.
- Sec. 743. Cleanup costs.

## Subtitle E—Additional programs and activities

- Sec. 751. Improvements to Department of Justice drug court grant program.
- Sec. 752. Drug courts funding.
- Sec. 753. Feasibility study on Federal drug courts.
- Sec. 754. Grants to hot spot areas to reduce availability of methamphetamine.
- Sec. 755. Grants for programs for drug-endangered children.
- Sec. 756. Authority to award competitive grants to address methamphetamine use by pregnant and parenting women offenders.

1 **TITLE I—USA PATRIOT IM-**  
2 **PROVEMENT AND REAUTHOR-**  
3 **IZATION ACT**

4 **SEC. 101. REFERENCES TO, AND MODIFICATION OF SHORT**  
5 **TITLE FOR, USA PATRIOT ACT.**

6 (a) REFERENCES TO USA PATRIOT ACT.—A ref-  
7 erence in this Act to the USA PATRIOT Act shall be  
8 deemed a reference to the Uniting and Strengthening





1 America by Providing Appropriate Tools Required to  
2 Intercept and Obstruct Terrorism Act (USA PATRIOT  
3 Act) of 2001.

4 (b) MODIFICATION OF SHORT TITLE OF USA PA-  
5 TRIOT ACT.—Section 1(a) of the USA PATRIOT Act  
6 is amended to read as follows:

7 “(a) SHORT TITLE.—This Act may be cited as the  
8 ‘Uniting and Strengthening America by Providing Appro-  
9 priate Tools Required to Intercept and Obstruct Ter-  
10 rorism Act of 2001’ or the ‘USA PATRIOT Act’.”.

11 **SEC. 102. USA PATRIOT ACT SUNSET PROVISIONS.**

12 (a) IN GENERAL.—Section 224 of the USA PA-  
13 TRIOT Act is repealed.

14 (b) SECTIONS 206 AND 215 SUNSET.—

15 (1) IN GENERAL.—Effective December 31,  
16 2012, the Foreign Intelligence Surveillance Act of  
17 1978 is amended so that sections 501, 502, and  
18 105(c)(2) read as they read on October 25, 2001.

19 (2) EXCEPTION.—With respect to any par-  
20 ticular foreign intelligence investigation that began  
21 before the date on which the provisions referred to  
22 in paragraph (1) cease to have effect, or with re-  
23 spect to any particular offense or potential offense  
24 that began or occurred before the date on which



1       such provisions cease to have effect, such provisions  
2       shall continue in effect.

3   **SEC. 103. EXTENSION OF SUNSET RELATING TO INDI-**  
4               **VIDUAL TERRORISTS AS AGENTS OF FOR-**  
5               **EIGN POWERS.**

6       Section 6001(b) of the Intelligence Reform and Ter-  
7   rorism Prevention Act of 2004 (Public Law 108-154; 118  
8   Stat. 3742) is amended to read as follows:

9       “(b) SUNSET.—

10           “(1) IN GENERAL.—Except as provided in para-  
11       graph (2), the amendment made by subsection (a)  
12       shall cease to have effect on December 31, 2012.

13           “(2) EXCEPTION.—With respect to any par-  
14       ticular foreign intelligence investigation that began  
15       before the date on which the provisions referred to  
16       in paragraph (1) cease to have effect, or with re-  
17       spect to any particular offense or potential offense  
18       that began or occurred before the date on which the  
19       provisions cease to have effect, such provisions shall  
20       continue in effect.”.



1 **SEC. 104. SECTION 2332b AND THE MATERIAL SUPPORT**  
2 **SECTIONS OF TITLE 18, UNITED STATES**  
3 **CODE.**

4 Section 6603 of the Intelligence Reform and Ter-  
5 rorism Prevention Act of 2004 (Public Law 108-458; 118  
6 Stat. 3762) is amended by striking subsection (g).

7 **SEC. 105. DURATION OF FISA SURVEILLANCE OF NON-**  
8 **UNITED STATES PERSONS UNDER SECTION**  
9 **207 OF THE USA PATRIOT ACT.**

10 (a) **ELECTRONIC SURVEILLANCE.**—Section 105(e) of  
11 the Foreign Intelligence Surveillance Act of 1978 (50  
12 U.S.C. 1805(e)) is amended—

13 (1) in paragraph (1)(B), by striking “, as de-  
14 fined in section 101(b)(1)(A)” and inserting “who is  
15 not a United States person”; and

16 (2) in subsection (2)(B), by striking “as defined  
17 in section 101(b)(1)(A)” and inserting “who is not  
18 a United States person”.

19 (b) **PHYSICAL SEARCH.**—Section 304(d) of such Act  
20 (50 U.S.C. 1824(d)) is amended—

21 (1) in paragraph (1)(B), by striking “as defined  
22 in section 101(b)(1)(A)” and inserting “who is not  
23 a United States person”; and

24 (2) in paragraph (2), by striking “as defined in  
25 section 101(b)(1)(A)” and inserting “who is not a  
26 United States person”.



1 (c) PEN REGISTERS, TRAP AND TRACE DEVICES.—

2 Section 402(e) of such Act (50 U.S.C. 1842(e)) is

3 amended—

4 (1) by striking “(e) An” and inserting “(e)(1)

5 Except as provided in paragraph (2), an”; and

6 (2) by adding at the end the following new

7 paragraph:

8 “(2) In the case of an application under subsection

9 (c) where the applicant has certified that the information

10 likely to be obtained is foreign intelligence information not

11 concerning a United States person, an order, or an exten-

12 sion of an order, under this section may be for a period

13 not to exceed one year.”.

14 **SEC. 106. ACCESS TO CERTAIN BUSINESS RECORDS UNDER**

15 **SECTION 215 OF THE USA PATRIOT ACT.**

16 (a) DIRECTOR APPROVAL FOR CERTAIN APPLICA-

17 TIONS.—Subsection (a) of section 501 of the Foreign In-

18 telligence Surveillance Act of 1978 (50 U.S.C. 1861(a))

19 is amended—

20 (1) in paragraph (1), by striking “The Direc-

21 tor” and inserting “Subject to paragraph (3), the

22 Director”; and

23 (2) by adding at the end the following:

24 “(3) In the case of an application for an order

25 requiring the production of library circulation



1 records, library patron lists, book sales records, book  
2 customer lists, firearms sales records, tax return  
3 records, educational records, or medical records con-  
4 taining information that would identify a person, the  
5 Director of the Federal Bureau of Investigation may  
6 delegate the authority to make such application to  
7 either the Deputy Director of the Federal Bureau of  
8 Investigation or the Executive Assistant Director for  
9 National Security (or any successor position). The  
10 Deputy Director or the Executive Assistant Director  
11 may not further delegate such authority.”.

12 (b) FACTUAL BASIS FOR REQUESTED ORDER.—Sub-  
13 section (b)(2) of such section is amended to read as fol-  
14 lows:

15 “(2) shall include—

16 “(A) a statement of facts showing that  
17 there are reasonable grounds to believe that the  
18 tangible things sought are relevant to an au-  
19 thorized investigation (other than a threat as-  
20 sessment) conducted in accordance with sub-  
21 section (a)(2) to obtain foreign intelligence in-  
22 formation not concerning a United States per-  
23 son or to protect against international terrorism  
24 or clandestine intelligence activities, such things  
25 being presumptively relevant to an authorized



1 investigation if the applicant shows in the state-  
2 ment of the facts that they pertain to—

3 “(i) a foreign power or an agent of a  
4 foreign power;

5 “(ii) the activities of a suspected  
6 agent of a foreign power who is the subject  
7 of such authorized investigation; or

8 “(iii) an individual in contact with, or  
9 known to, a suspected agent of a foreign  
10 power who is the subject of such author-  
11 ized investigation; and

12 “(B) an enumeration of the minimization  
13 procedures adopted by the Attorney General  
14 under subsection (g) that are applicable to the  
15 retention and dissemination by the Federal Bu-  
16 reau of Investigation of any tangible things to  
17 be made available to the Federal Bureau of In-  
18 vestigation based on the order requested in such  
19 application.”.

20 (c) CLARIFICATION OF JUDICIAL DISCRETION.—Sub-  
21 section (c)(1) of such section is amended to read as fol-  
22 lows:

23 “(c)(1) Upon an application made pursuant to this  
24 section, if the judge finds that the application meets the  
25 requirements of subsections (a) and (b), the judge shall



1 enter an ex parte order as requested, or as modified, ap-  
2 proving the release of tangible things. Such order shall  
3 direct that minimization procedures adopted pursuant to  
4 subsection (g) be followed.”.

5 (d) ADDITIONAL PROTECTIONS.—Subsection (c)(2)  
6 of such section is amended to read as follows:

7 “(2) An order under this subsection—

8 “(A) shall describe the tangible things that  
9 are ordered to be produced with sufficient par-  
10 ticularity to permit them to be fairly identified;

11 “(B) shall include the date on which the  
12 tangible things must be provided, which shall  
13 allow a reasonable period of time within which  
14 the tangible things can be assembled and made  
15 available;

16 “(C) shall provide clear and conspicuous  
17 notice of the principles and procedures de-  
18 scribed in subsection (d);

19 “(D) may only require the production of a  
20 tangible thing if such thing can be obtained  
21 with a subpoena duces tecum issued by a court  
22 of the United States in aid of a grand jury in-  
23 vestigation or with any other order issued by a  
24 court of the United States directing the produc-  
25 tion of records or tangible things; and



1           “(E) shall not disclose that such order is  
2           issued for purposes of an investigation de-  
3           scribed in subsection (a).”.

4           (e) PROHIBITION ON DISCLOSURE.—Subsection (d)  
5 of such section is amended to read as follows:

6           “(d)(1) No person shall disclose to any other person  
7 that the Federal Bureau of Investigation has sought or  
8 obtained tangible things pursuant to an order under this  
9 section, other than to—

10           “(A) those persons to whom disclosure is nec-  
11 essary to comply with such order;

12           “(B) an attorney to obtain legal advice or as-  
13 sistance with respect to the production of things in  
14 response to the order; or

15           “(C) other persons as permitted by the Director  
16 of the Federal Bureau of Investigation or the des-  
17 ignee of the Director.

18           “(2)(A) A person to whom disclosure is made pursu-  
19 ant to paragraph (1) shall be subject to the nondisclosure  
20 requirements applicable to a person to whom an order is  
21 directed under this section in the same manner as such  
22 person.

23           “(B) Any person who discloses to a person de-  
24 scribed in subparagraphs (A), (B), or (C) of para-  
25 graph (1) that the Federal Bureau of Investigation





1 has sought or obtained tangible things pursuant to  
2 an order under this section shall notify such person  
3 of the nondisclosure requirements of this subsection.

4 “(C) At the request of the Director of the Fed-  
5 eral Bureau of Investigation or the designee of the  
6 Director, any person making or intending to make  
7 a disclosure under this section shall identify to the  
8 Director or such designee the person to whom such  
9 disclosure will be made or to whom such disclosure  
10 was made prior to the request.”.

11 (f) JUDICIAL REVIEW.—

12 (1) PETITION REVIEW POOL.—Section 103 of  
13 the Foreign Intelligence Surveillance Act of 1978  
14 (50 U.S.C. 1803) is amended by adding at the end  
15 the following new subsection:

16 “(e)(1) Three judges designated under subsection (a)  
17 who reside within 20 miles of the District of Columbia,  
18 or, if all of such judges are unavailable, other judges of  
19 the court established under subsection (a) as may be des-  
20 ignated by the presiding judge of such court, shall com-  
21 prise a petition review pool which shall have jurisdiction  
22 to review petitions filed pursuant to section 501(f)(1).

23 “(2) Not later than 60 days after the date of the en-  
24 actment of the USA PATRIOT Improvement and Reau-  
25 thorization Act of 2005, the court established under sub-



1 section (a) shall adopt and, consistent with the protection  
2 of national security, publish procedures for the review of  
3 petitions filed pursuant to section 501(f)(1) by the panel  
4 established under paragraph (1). Such procedures shall  
5 provide that review of a petition shall be conducted in  
6 camera and shall also provide for the designation of an  
7 acting presiding judge.”.

8 (2) PROCEEDINGS.—Section 501 of the Foreign  
9 Intelligence Surveillance Act of 1978 (50 U.S.C.  
10 1861) is further amended by adding at the end the  
11 following new subsection:

12 “(f)(1) A person receiving an order to produce any  
13 tangible thing under this section may challenge the legal-  
14 ity of that order by filing a petition with the pool estab-  
15 lished by section 103(e)(1). The presiding judge shall im-  
16 mediately assign the petition to one of the judges serving  
17 in such pool. Not later than 72 hours after the assignment  
18 of such petition, the assigned judge shall conduct an initial  
19 review of the petition. If the assigned judge determines  
20 that the petition is frivolous, the assigned judge shall im-  
21 mediately deny the petition and affirm the order. If the  
22 assigned judge determines the petition is not frivolous, the  
23 assigned judge shall promptly consider the petition in ac-  
24 cordance with the procedures established pursuant to sec-  
25 tion 103(e)(2). The judge considering the petition may



1 modify or set aside the order only if the judge finds that  
2 the order does not meet the requirements of this section  
3 or is otherwise unlawful. If the judge does not modify or  
4 set aside the order, the judge shall immediately affirm the  
5 order and order the recipient to comply therewith. The as-  
6 signed judge shall promptly provide a written statement  
7 for the record of the reasons for any determination under  
8 this paragraph.

9 “(2) A petition for review of a decision to affirm,  
10 modify, or set aside an order by the United States or any  
11 person receiving such order shall be to the court of review  
12 established under section 103(b), which shall have juris-  
13 diction to consider such petitions. The court of review shall  
14 provide for the record a written statement of the reasons  
15 for its decision and, on petition of the United States or  
16 any person receiving such order for writ of certiorari, the  
17 record shall be transmitted under seal to the Supreme  
18 Court, which shall have jurisdiction to review such deci-  
19 sion.

20 “(3) Judicial proceedings under this subsection shall  
21 be concluded as expeditiously as possible. The record of  
22 proceedings, including petitions filed, orders granted, and  
23 statements of reasons for decision, shall be maintained  
24 under security measures established by the Chief Justice



1 of the United States in consultation with the Attorney  
2 General and the Director of National Intelligence.

3 “(4) All petitions under this subsection shall be filed  
4 under seal. In any proceedings under this subsection, the  
5 court shall, upon request of the government, review ex  
6 parte and in camera any government submission, or por-  
7 tions thereof, which may include classified information.”.

8 (g) MINIMIZATION PROCEDURES AND USE OF INFOR-  
9 MATION.—Section 501 of the Foreign Intelligence Surveil-  
10 lance Act of 1978 (50 U.S.C. 1861) is further amended  
11 by adding at the end the following new subsections:

12 “(g) MINIMIZATION PROCEDURES.—

13 “(1) IN GENERAL.—Not later than 180 days  
14 after the date of the enactment of the USA PA-  
15 TRIOT Improvement and Reauthorization Act of  
16 2005, the Attorney General shall adopt specific  
17 minimization procedures governing the retention and  
18 dissemination by the Federal Bureau of Investiga-  
19 tion of any tangible things, or information therein,  
20 received by the Federal Bureau of Investigation in  
21 response to an order under this title.

22 “(2) DEFINED.—In this section, the term  
23 ‘minimization procedures’ means—

24 “(A) specific procedures that are reason-  
25 ably designed in light of the purpose and tech-



1           nique of an order for the production of tangible  
2           things, to minimize the retention, and prohibit  
3           the dissemination, of nonpublicly available in-  
4           formation concerning unconsenting United  
5           States persons consistent with the need of the  
6           United States to obtain, produce, and dissemi-  
7           nate foreign intelligence information;

8           “(B) procedures that require that nonpub-  
9           licly available information, which is not foreign  
10          intelligence information, as defined in section  
11          101(e)(1), shall not be disseminated in a man-  
12          ner that identifies any United States person,  
13          without such person’s consent, unless such per-  
14          son’s identity is necessary to understand foreign  
15          intelligence information or assess its impor-  
16          tance; and

17          “(C) notwithstanding subparagraphs (A)  
18          and (B), procedures that allow for the retention  
19          and dissemination of information that is evi-  
20          dence of a crime which has been, is being, or  
21          is about to be committed and that is to be re-  
22          tained or disseminated for law enforcement pur-  
23          poses.

24          “(h) USE OF INFORMATION.—Information acquired  
25          from tangible things received by the Federal Bureau of



1 Investigation in response to an order under this title con-  
2 cerning any United States person may be used and dis-  
3 closed by Federal officers and employees without the con-  
4 sent of the United States person only in accordance with  
5 the minimization procedures adopted pursuant to sub-  
6 section (g). No otherwise privileged information acquired  
7 from tangible things received by the Federal Bureau of  
8 Investigation in accordance with the provisions of this title  
9 shall lose its privileged character. No information acquired  
10 from tangible things received by the Federal Bureau of  
11 Investigation in response to an order under this title may  
12 be used or disclosed by Federal officers or employees ex-  
13 cept for lawful purposes.”.

14 (h) ENHANCED OVERSIGHT.—Section 502 of the  
15 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.  
16 1862) is amended—

17 (1) in subsection (a)—

18 (A) by striking “semiannual basis” and in-  
19 serting “annual basis”; and

20 (B) by inserting “and the Committee on  
21 the Judiciary” after “and the Select Committee  
22 on Intelligence”;

23 (2) in subsection (b)—

24 (A) by striking “On a semiannual basis”  
25 and all that follows through “the preceding 6-



1 month period” and inserting “In April of each  
2 year, the Attorney General shall submit to the  
3 House and Senate Committees on the Judiciary  
4 and the House Permanent Select Committee on  
5 Intelligence and the Senate Select Committee  
6 on Intelligence a report setting forth with re-  
7 spect to the preceding calendar year”;

8 (B) in paragraph (1), by striking “and” at  
9 the end;

10 (C) in paragraph (2), by striking the pe-  
11 riod at the end and inserting “; and”; and

12 (D) by adding at the end the following new  
13 paragraph:

14 “(3) the number of such orders either granted,  
15 modified, or denied for the production of each of the  
16 following:

17 “(A) Library circulation records, library  
18 patron lists, book sales records, or book cus-  
19 tomer lists.

20 “(B) Firearms sales records.

21 “(C) Tax return records.

22 “(D) Educational records.

23 “(E) Medical records containing informa-  
24 tion that would identify a person.”; and



1 (3) by adding at the end the following new sub-  
2 section:

3 “(c)(1) In April of each year, the Attorney General  
4 shall submit to Congress a report setting forth with re-  
5 spect to the preceding year—

6 “(A) the total number of applications made for  
7 orders approving requests for the production of tan-  
8 gible things under section 501; and

9 “(B) the total number of such orders either  
10 granted, modified, or denied.

11 “(2) Each report under this subsection shall be sub-  
12 mitted in unclassified form.”.

13 **SECTION 106A. AUDIT ON ACCESS TO CERTAIN BUSINESS**  
14 **RECORDS FOR FOREIGN INTELLIGENCE PUR-**  
15 **POSES.**

16 (a) **AUDIT.**—The Inspector General of the Depart-  
17 ment of Justice shall perform a comprehensive audit of  
18 the effectiveness and use, including any improper or illegal  
19 use, of the investigative authority provided to the Federal  
20 Bureau of Investigation under title V of the Foreign Intel-  
21 ligence Surveillance Act of 1978 (50 U.S.C. 1861 et seq.).

22 (b) **REQUIREMENTS.**—The audit required under sub-  
23 section (a) shall include—

24 (1) an examination of each instance in which  
25 the Attorney General, any other officer, employee, or





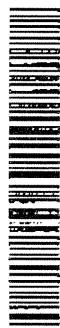
1 agent of the Department of Justice, the Director of  
2 the Federal Bureau of Investigation, or a designee  
3 of the Director, submitted an application to the For-  
4 eign Intelligence Surveillance Court (as such term is  
5 defined in section 301(3) of the Foreign Intelligence  
6 Surveillance Act of 1978 (50 U.S.C. 1821(3))) for  
7 an order under section 501 of such Act during the  
8 calendar years of 2002 through 2006, including—

9 (A) whether the Federal Bureau of Inves-  
10 tigation requested that the Department of Jus-  
11 tice submit an application and the request was  
12 not submitted to the court (including an exam-  
13 ination of the basis for not submitting the ap-  
14 plication);

15 (B) whether the court granted, modified,  
16 or denied the application (including an exam-  
17 ination of the basis for any modification or de-  
18 nial);

19 (2) the justification for the failure of the Attor-  
20 ney General to issue implementing procedures gov-  
21 erning requests for the production of tangible things  
22 under such section in a timely fashion, including  
23 whether such delay harmed national security;

24 (3) whether bureaucratic or procedural impedi-  
25 ments to the use of such requests for production



1 prevent the Federal Bureau of Investigation from  
2 taking full advantage of the authorities provided  
3 under section 501 of such Act;

4 (4) any noteworthy facts or circumstances relat-  
5 ing to orders under such section, including any im-  
6 proper or illegal use of the authority provided under  
7 such section; and

8 (5) an examination of the effectiveness of such  
9 section as an investigative tool, including—

10 (A) the categories of records obtained and  
11 the importance of the information acquired to  
12 the intelligence activities of the Federal Bureau  
13 of Investigation or any other Department or  
14 agency of the Federal Government;

15 (B) the manner in which such information  
16 is collected, retained, analyzed, and dissemi-  
17 nated by the Federal Bureau of Investigation,  
18 including any direct access to such information  
19 (such as access to “raw data”) provided to any  
20 other Department, agency, or instrumentality of  
21 Federal, State, local, or tribal governments or  
22 any private sector entity;

23 (C) with respect to calendar year 2006, an  
24 examination of the minimization procedures  
25 adopted by the Attorney General under section



1 501(g) of such Act and whether such minimiza-  
2 tion procedures protect the constitutional rights  
3 of United States persons;

4 (D) whether, and how often, the Federal  
5 Bureau of Investigation utilized information ac-  
6 quired pursuant to an order under section 501  
7 of such Act to produce an analytical intelligence  
8 product for distribution within the Federal Bu-  
9 reau of Investigation, to the intelligence com-  
10 munity (as such term is defined in section 3(4)  
11 of the National Security Act of 1947 (50  
12 U.S.C. 401a(4))), or to other Federal, State,  
13 local, or tribal government Departments, agen-  
14 cies, or instrumentalities; and

15 (E) whether, and how often, the Federal  
16 Bureau of Investigation provided such informa-  
17 tion to law enforcement authorities for use in  
18 criminal proceedings.

19 (c) SUBMISSION DATES.—

20 (1) PRIOR YEARS.—Not later than one year  
21 after the date of the enactment of this Act, or upon  
22 completion of the audit under this section for cal-  
23 endar years 2002, 2003, and 2004, whichever is ear-  
24 lier, the Inspector General of the Department of  
25 Justice shall submit to the Committee on the Judici-



1 ary and the Permanent Select Committee on Intel-  
2 ligence of the House of Representatives and the  
3 Committee on the Judiciary and the Select Com-  
4 mittee on Intelligence of the Senate a report con-  
5 taining the results of the audit conducted under this  
6 section for calendar years 2002, 2003, and 2004.

7 (2) CALENDAR YEARS 2005 AND 2006.—Not  
8 later than December 31, 2007, or upon completion  
9 of the audit under this section for calendar years  
10 2005 and 2006, whichever is earlier, the Inspector  
11 General of the Department of Justice shall submit  
12 to the Committee on the Judiciary and the Perma-  
13 nent Select Committee on Intelligence of the House  
14 of Representatives and the Committee on the Judici-  
15 ary and the Select Committee on Intelligence of the  
16 Senate a report containing the results of the audit  
17 conducted under this section for calendar years 2005  
18 and 2006.

19 (d) PRIOR NOTICE TO ATTORNEY GENERAL AND DI-  
20 RECTOR OF NATIONAL INTELLIGENCE; COMMENTS.—

21 (1) NOTICE.—Not less than 30 days before the  
22 submission of a report under subsections (c)(1) or  
23 (c)(2), the Inspector General of the Department of  
24 Justice shall provide such report to the Attorney  
25 General and the Director of National Intelligence.

1           (2) COMMENTS.—The Attorney General or the  
2       Director of National Intelligence may provide com-  
3       ments to be included in the reports submitted under  
4       subsections (c)(1) and (c)(2) as the Attorney Gen-  
5       eral or the Director of National Intelligence may  
6       consider necessary.

7       (e) UNCLASSIFIED FORM.—The reports submitted  
8       under subsection (c)(1) and (c)(2) and any comments in-  
9       cluded under subsection (d)(2) shall be in unclassified  
10      form, but may include a classified annex.

11   **SEC. 107. ENHANCED OVERSIGHT OF GOOD-FAITH EMER-**  
12                           **GENCY DISCLOSURES UNDER SECTION 212 OF**  
13                           **THE USA PATRIOT ACT.**

14       (a) ENHANCED OVERSIGHT.—Section 2702 of title  
15   18, United States Code, is amended by adding at the end  
16   the following:

17       “(d) REPORTING OF EMERGENCY DISCLOSURES.—  
18   On an annual basis, the Attorney General shall submit to  
19   the Committee on the Judiciary of the House of Rep-  
20   resentatives and the Committee on the Judiciary of the  
21   Senate a report containing—

22           “(1) the number of accounts from which the  
23       Department of Justice has received voluntary disclo-  
24       sures under subsection (b)(8); and



1           “(2) a summary of the basis for disclosure in  
2       those instances where—

3           “(A) voluntary disclosures under sub-  
4       section (b)(8) were made to the Department of  
5       Justice; and

6           “(B) the investigation pertaining to those  
7       disclosures was closed without the filing of  
8       criminal charges.”.

9       (b) TECHNICAL AMENDMENTS TO CONFORM COMMU-  
10     NICATIONS AND CUSTOMER RECORDS EXCEPTIONS.—

11       (1) VOLUNTARY DISCLOSURES.—Section 2702  
12     of title 18, United States Code, is amended—

13           (A) in subsection (b)(8), by striking “Fed-  
14       eral, State, or local”; and

15           (B) by striking paragraph (4) of sub-  
16       section (c) and inserting the following:

17           “(4) to a governmental entity, if the provider,  
18       in good faith, believes that an emergency involving  
19       danger of death or serious physical injury to any  
20       person requires disclosure without delay of informa-  
21       tion relating to the emergency;”.

22       (2) DEFINITIONS.—Section 2711 of title 18,  
23     United States Code, is amended—

24           (A) in paragraph (2), by striking “and” at  
25       the end;



1 (B) in paragraph (3), by striking the pe-  
2 riod at the end and inserting “; and”; and

3 (C) by adding at the end the following:

4 “(4) the term ‘governmental entity’ means a de-  
5 partment or agency of the United States or any  
6 State or political subdivision thereof.”.

7 (c) ADDITIONAL EXCEPTION.—Section 2702(a) of  
8 title 18, United States Code, is amended by inserting “or  
9 (c)” after “Except as provided in subsection (b)”.

10 **SEC. 108. MULTIPPOINT ELECTRONIC SURVEILLANCE**  
11 **UNDER SECTION 206 OF THE USA PATRIOT**  
12 **ACT.**

13 (a) INCLUSION OF SPECIFIC FACTS IN APPLICA-  
14 TION.—

15 (1) APPLICATION.—Section 104(a)(3) of the  
16 Foreign Intelligence Surveillance Act of 1978 (50  
17 U.S.C. 1804(a)(3)) is amended by inserting “spe-  
18 cific” after “description of the”.

19 (2) ORDER.—Subsection (c) of section 105 of  
20 the Foreign Intelligence Surveillance Act of 1978  
21 (50 U.S.C. 1805(c)) is amended—

22 (A) in paragraph (1)(A) by striking “tar-  
23 get of the electronic surveillance” and inserting  
24 “specific target of the electronic surveillance

1 identified or described in the application pursu-  
2 ant to section 104(a)(3)"; and

3 (B) in paragraph (2)(B), by striking  
4 "where the Court finds" and inserting "where  
5 the Court finds, based upon specific facts pro-  
6 vided in the application,".

7 (b) ADDITIONAL DIRECTIONS.—Such subsection is  
8 further amended—

9 (1) by striking "An order approving" and all  
10 that follows through "specify" and inserting "(1)  
11 SPECIFICATIONS.—An order approving an electronic  
12 surveillance under this section shall specify";

13 (2) in paragraph (1)(F), by striking "; and"  
14 and inserting a period;

15 (3) in paragraph (2), by striking "direct" and  
16 inserting "DIRECTIONS.—An order approving an  
17 electronic surveillance under this section shall di-  
18 rect"; and

19 (4) by adding at the end the following new  
20 paragraph:

21 "(3) SPECIAL DIRECTIONS FOR CERTAIN OR-  
22 DERS.—An order approving an electronic surveil-  
23 lance under this section in circumstances where the  
24 nature and location of each of the facilities or places  
25 at which the surveillance will be directed is unknown





1 shall direct the applicant to provide notice to the  
2 court within ten days after the date on which sur-  
3 veillance begins to be directed at any new facility or  
4 place, unless the court finds good cause to justify a  
5 longer period of up to 60 days, of—

6 “(A) the nature and location of each new  
7 facility or place at which the electronic surveil-  
8 lance is directed;

9 “(B) the facts and circumstances relied  
10 upon by the applicant to justify the applicant’s  
11 belief that each new facility or place at which  
12 the electronic surveillance is directed is or was  
13 being used, or is about to be used, by the target  
14 of the surveillance;

15 “(C) a statement of any proposed mini-  
16 mization procedures that differ from those con-  
17 tained in the original application or order, that  
18 may be necessitated by a change in the facility  
19 or place at which the electronic surveillance is  
20 directed; and

21 “(D) the total number of electronic surveil-  
22 lances that have been or are being conducted  
23 under the authority of the order.”.

24 (c) ENHANCED OVERSIGHT.—

1 (1) REPORT TO CONGRESS.—Section 108(a)(1)  
2 of the Foreign Intelligence Surveillance Act of 1978  
3 (50 U.S.C. 1808(a)(1)) is amended by inserting “,  
4 and the Committee on the Judiciary of the Senate,”  
5 after “Senate Select Committee on Intelligence”.

6 (2) MODIFICATION OF SEMIANNUAL REPORT  
7 REQUIREMENT ON ACTIVITIES UNDER FOREIGN IN-  
8 TELLIGENCE SURVEILLANCE ACT OF 1978.—Para-  
9 graph (2) of section 108(a) of the Foreign Intel-  
10 ligence Surveillance Act of 1978 (50 U.S.C.  
11 1808(a)) is amended to read as follows:

12 “(2) Each report under the first sentence of  
13 paragraph (1) shall include a description of—

14 “(A) the total number of applications made  
15 for orders and extensions of orders approving  
16 electronic surveillance under this title where the  
17 nature and location of each facility or place at  
18 which the electronic surveillance will be directed  
19 is unknown;

20 “(B) each criminal case in which informa-  
21 tion acquired under this Act has been author-  
22 ized for use at trial during the period covered  
23 by such report; and

24 “(C) the total number of emergency em-  
25 ployments of electronic surveillance under sec-



1           tion 105(f) and the total number of subsequent  
2           orders approving or denying such electronic sur-  
3           veillance.”.

4   **SEC. 109. ENHANCED CONGRESSIONAL OVERSIGHT.**

5       (a) **EMERGENCY PHYSICAL SEARCHES.**—Section 306  
6 of the Foreign Intelligence Surveillance Act of 1978 (50  
7 U.S.C. 1826) is amended—

8           (1) in the first sentence, by inserting, “ and the  
9       Committee on the Judiciary of the Senate,” after  
10       “the Senate”;

11          (2) in the second sentence, by striking “and the  
12       Committees on the Judiciary of the House of Rep-  
13       resentatives and the Senate” and inserting “and the  
14       Committee on the Judiciary of the House of Rep-  
15       resentatives”;

16          (3) in paragraph (2), by striking “and” at the  
17       end;

18          (4) in paragraph (3), by striking the period at  
19       the end and inserting “; and”; and

20          (5) by adding at the end the following:

21           “(4) the total number of emergency physical  
22       searches authorized by the Attorney General under  
23       section 304(e) and the total number of subsequent  
24       orders approving or denying such physical  
25       searches.”.



1 (b) EMERGENCY PEN REGISTERS AND TRAP AND  
2 TRACE DEVICES.—Section 406(b) of the Foreign Intel-  
3 ligence Surveillance Act of 1978 (50 U.S.C. 1846(b)) is  
4 amended—

5 (1) in paragraph (1), by striking “and” at the  
6 end;

7 (2) in paragraph (2), by striking the period at  
8 the end and inserting “; and”; and

9 (3) by adding at the end the following:

10 “(3) the total number of pen registers and trap  
11 and trace devices whose installation and use was au-  
12 thorized by the Attorney General on an emergency  
13 basis under section 403, and the total number of  
14 subsequent orders approving or denying the installa-  
15 tion and use of such pen registers and trap and  
16 trace devices.”.

17 (c) ADDITIONAL REPORT.—At the beginning and  
18 midpoint of each fiscal year, the Secretary of Homeland  
19 Security shall submit to the Committees on the Judiciary  
20 of the House of Representatives and the Senate, a written  
21 report providing a description of internal affairs oper-  
22 ations at U.S. Citizenship and Immigration Services, in-  
23 cluding the general state of such operations and a detailed  
24 description of investigations that are being conducted (or  
25 that were conducted during the previous six months) and

1 the resources devoted to such investigations. The first  
2 such report shall be submitted not later than April 1,  
3 2006.

4 (d) RULES AND PROCEDURES FOR FISA COURTS.—  
5 Section 103 of the Foreign Intelligence Surveillance Act  
6 of 1978 (50 U.S.C. 1803) is amended by adding at the  
7 end the following:

8 “(f)(1) The courts established pursuant to sub-  
9 sections (a) and (b) may establish such rules and proce-  
10 dures, and take such actions, as are reasonably necessary  
11 to administer their responsibilities under this Act.

12 “(2) The rules and procedures established under  
13 paragraph (1), and any modifications of such rules and  
14 procedures, shall be recorded, and shall be transmitted to  
15 the following:

16 “(A) All of the judges on the court established  
17 pursuant to subsection (a).

18 “(B) All of the judges on the court of review es-  
19 tablished pursuant to subsection (b).

20 “(C) The Chief Justice of the United States.

21 “(D) The Committee on the Judiciary of the  
22 Senate.

23 “(E) The Select Committee on Intelligence of  
24 the Senate.



1           “(F) The Committee on the Judiciary of the  
2     House of Representatives.

3           “(G) The Permanent Select Committee on In-  
4     telligence of the House of Representatives.

5           “(3) The transmissions required by paragraph (2)  
6     shall be submitted in unclassified form, but may include  
7     a classified annex.”.

8     **SEC. 110. ATTACKS AGAINST RAILROAD CARRIERS AND**  
9           **MASS TRANSPORTATION SYSTEMS.**

10          (a) **IN GENERAL.**—Chapter 97 of title 18, United  
11     States Code, is amended by striking sections 1992 through  
12     1993 and inserting the following:

13     **“§ 1992. Terrorist attacks and other violence against**  
14           **railroad carriers and against mass trans-**  
15           **portation systems on land, on water, or**  
16           **through the air**

17           “(a) **GENERAL PROHIBITIONS.**—Whoever, in a cir-  
18     cumstance described in subsection (c), knowingly and  
19     without lawful authority or permission—

20           “(1) wrecks, derails, sets fire to, or disables  
21     railroad on-track equipment or a mass transpor-  
22     tation vehicle;

23           “(2) places any biological agent or toxin, de-  
24     structive substance, or destructive device in, upon,  
25     or near railroad on-track equipment or a mass



1 transportation vehicle with intent to endanger the  
2 safety of any person, or with a reckless disregard for  
3 the safety of human life;

4 “(3) places or releases a hazardous material or  
5 a biological agent or toxin on or near any property  
6 described in subparagraph (A) or (B) of paragraph  
7 (4), with intent to endanger the safety of any per-  
8 son, or with reckless disregard for the safety of  
9 human life;

10 “(4) sets fire to, undermines, makes unwork-  
11 able, unusable, or hazardous to work on or use, or  
12 places any biological agent or toxin, destructive sub-  
13 stance, or destructive device in, upon, or near any—

14 “(A) tunnel, bridge, viaduct, trestle, track,  
15 electromagnetic guideway, signal, station, depot,  
16 warehouse, terminal, or any other way, struc-  
17 ture, property, or appurtenance used in the op-  
18 eration of, or in support of the operation of, a  
19 railroad carrier, and with intent to, or knowing  
20 or having reason to know, such activity would  
21 likely, derail, disable, or wreck railroad on-track  
22 equipment; or

23 “(B) garage, terminal, structure, track,  
24 electromagnetic guideway, supply, or facility  
25 used in the operation of, or in support of the



1 operation of, a mass transportation vehicle, and  
2 with intent to, or knowing or having reason to  
3 know, such activity would likely, derail, disable,  
4 or wreck a mass transportation vehicle used,  
5 operated, or employed by a mass transportation  
6 provider;

7 “(5) removes an appurtenance from, damages,  
8 or otherwise impairs the operation of a railroad sig-  
9 nal system or mass transportation signal or dis-  
10 patching system, including a train control system,  
11 centralized dispatching system, or highway-railroad  
12 grade crossing warning signal;

13 “(6) with intent to endanger the safety of any  
14 person, or with a reckless disregard for the safety of  
15 human life, interferes with, disables, or incapacitates  
16 any dispatcher, driver, captain, locomotive engineer,  
17 railroad conductor, or other person while the person  
18 is employed in dispatching, operating, controlling, or  
19 maintaining railroad on-track equipment or a mass  
20 transportation vehicle;

21 “(7) commits an act, including the use of a  
22 dangerous weapon, with the intent to cause death or  
23 serious bodily injury to any person who is on prop-  
24 erty described in subparagraph (A) or (B) of para-  
25 graph (4);





1           “(8) surveils, photographs, videotapes, dia-  
2           grams, or otherwise collects information with the in-  
3           tent to plan or assist in planning any of the acts de-  
4           scribed in the paragraphs (1) through (6);

5           “(9) conveys false information, knowing the in-  
6           formation to be false, concerning an attempt or al-  
7           leged attempt to engage in a violation of this sub-  
8           section; or

9           “(10) attempts, threatens, or conspires to en-  
10          gage in any violation of any of paragraphs (1)  
11          through (9),

12 shall be fined under this title or imprisoned not more than  
13 20 years, or both, and if the offense results in the death  
14 of any person, shall be imprisoned for any term of years  
15 or for life, or subject to death, except in the case of a  
16 violation of paragraphs (8), (9), or (10).

17          “(b) AGGRAVATED OFFENSE.—Whoever commits an  
18 offense under subsection (a) of this section in a cir-  
19 cumstance in which—

20           “(1) the railroad on-track equipment or mass  
21           transportation vehicle was carrying a passenger or  
22           employee at the time of the offense,

23           “(2) the railroad on-track equipment or mass  
24           transportation vehicle was carrying high-level radio-



1 active waste or spent nuclear fuel at the time of the  
2 offense, or

3 “(3) the offense was committed with the intent  
4 to endanger the safety of any person, or with a reck-  
5 less disregard for the safety of any person, and the  
6 railroad on-track equipment or mass transportation  
7 vehicle was carrying a hazardous material at the  
8 time of the offense that—

9 “(A) was required to be placarded under  
10 subpart F of part 172 of title 49, Code of Fed-  
11 eral Regulations, and

12 “(B) is identified as class number 3, 4, 5,  
13 6.1, or 8 and packing group I or packing group  
14 II, or class number 1, 2, or 7 under the haz-  
15 ardous materials table of section 172.101 of  
16 title 49, Code of Federal Regulations,

17 shall be fined under this title or imprisoned for any term  
18 of years or life, or both, and if the offense resulted in the  
19 death of any person, the person may be sentenced to  
20 death.

21 “(c) CIRCUMSTANCES REQUIRED FOR OFFENSE.—A  
22 circumstance referred to in subsection (a) is any of the  
23 following:

24 “(1) Any of the conduct required for the offense  
25 is, or, in the case of an attempt, threat, or con-



1       spiracy to engage in conduct, the conduct required  
2       for the completed offense would be, engaged in, on,  
3       against, or affecting a mass transportation provider  
4       or railroad carrier engaged in interstate or foreign  
5       commerce.

6           “(2) Any person travels or communicates across  
7       a State line in order to commit the offense, or trans-  
8       ports materials across a State line in aid of the com-  
9       mission of the offense.

10       “(d) DEFINITIONS.—In this section—

11           “(1) the term ‘biological agent’ has the meaning  
12       given to that term in section 178(1);

13           “(2) the term ‘dangerous weapon’ means a  
14       weapon, device, instrument, material, or substance,  
15       animate or inanimate, that is used for, or is readily  
16       capable of, causing death or serious bodily injury, in-  
17       cluding a pocket knife with a blade of less than 2½  
18       inches in length and a box cutter;

19           “(3) the term ‘destructive device’ has the mean-  
20       ing given to that term in section 921(a)(4);

21           “(4) the term ‘destructive substance’ means an  
22       explosive substance, flammable material, infernal  
23       machine, or other chemical, mechanical, or radio-  
24       active device or material, or matter of a combustible,  
25       contaminative, corrosive, or explosive nature, except



1       that the term 'radioactive device' does not include  
2       any radioactive device or material used solely for  
3       medical, industrial, research, or other peaceful pur-  
4       poses;

5       “(5) the term 'hazardous material' has the  
6       meaning given to that term in chapter 51 of title 49;

7       “(6) the term 'high-level radioactive waste' has  
8       the meaning given to that term in section 2(12) of  
9       the Nuclear Waste Policy Act of 1982 (42 U.S.C.  
10      10101(12));

11      “(7) the term 'mass transportation' has the  
12      meaning given to that term in section 5302(a)(7) of  
13      title 49, except that the term includes school bus,  
14      charter, and sightseeing transportation and pas-  
15      senger vessel as that term is defined in section  
16      2101(22) of title 46, United States Code;

17      “(8) the term 'on-track equipment' means a  
18      carriage or other contrivance that runs on rails or  
19      electromagnetic guideways;

20      “(9) the term 'railroad on-track equipment'  
21      means a train, locomotive, tender, motor unit,  
22      freight or passenger car, or other on-track equip-  
23      ment used, operated, or employed by a railroad car-  
24      rier;



1 “(10) the term ‘railroad’ has the meaning given  
2 to that term in chapter 201 of title 49;

3 “(11) the term ‘railroad carrier’ has the mean-  
4 ing given to that term in chapter 201 of title 49;

5 “(12) the term ‘serious bodily injury’ has the  
6 meaning given to that term in section 1365;

7 “(13) the term ‘spent nuclear fuel’ has the  
8 meaning given to that term in section 2(23) of the  
9 Nuclear Waste Policy Act of 1982 (42 U.S.C.  
10 10101(23));

11 “(14) the term ‘State’ has the meaning given to  
12 that term in section 2266;

13 “(15) the term ‘toxin’ has the meaning given to  
14 that term in section 178(2); and

15 “(16) the term ‘vehicle’ means any carriage or  
16 other contrivance used, or capable of being used, as  
17 a means of transportation on land, on water, or  
18 through the air.”.

19 (b) CONFORMING AMENDMENTS.—

20 (1) The table of sections at the beginning of  
21 chapter 97 of title 18, United States Code, is  
22 amended—

23 (A) by striking “**RAILROADS**” in the  
24 chapter heading and inserting “**RAILROAD**  
25 **CARRIERS AND MASS TRANSPOR-**



(3) Title 18, United States Code, is amended—

(A) in section 2332b(g)(5)(B)(i), by striking “1992 (relating to wrecking trains), 1993 (relating to terrorist attacks and other acts of violence against mass transportation systems),” and inserting “1992 (relating to terrorist attacks and other acts of violence against railroad carriers and against mass transportation systems on land, on water, or through the air),”; and

(B) in section 2339A, by striking “1993,”;



1 (C) in section 2516(1)(c) by striking  
2 "1992 (relating to wrecking trains),".

3 **SEC. 111. FORFEITURE.**

4 Section 981(a)(1)(B)(i) of title 18, United States  
5 Code, is amended by inserting "trafficking in nuclear,  
6 chemical, biological, or radiological weapons technology or  
7 material, or" after "involves".

8 **SEC. 112. SECTION 2332b(g)(5)(B) AMENDMENTS RELATING**  
9 **TO THE DEFINITION OF FEDERAL CRIME OF**  
10 **TERRORISM.**

11 (a) **ADDITIONAL OFFENSES.**—Section  
12 2332b(g)(5)(B) of title 18, United States Code, is  
13 amended—

14 (1) in clause (i), by inserting ", 2339D (relat-  
15 ing to military-type training from a foreign terrorist  
16 organization)" before ", or 2340A";

17 (2) in clause (ii), by striking "or" after the  
18 semicolon;

19 (3) in clause (iii), by striking the period and in-  
20 serting "; or"

21 (4) by inserting after clause (iii) the following:

22 "(iv) section 1010A of the Controlled  
23 Substances Import and Export Act (relat-  
24 ing to narco-terrorism).".



1 (b) CLERICAL CORRECTION.—Section  
2 2332b(g)(5)(B) of title 18, United States Code, is amend-  
3 ed by inserting “)” after “2339C (relating to financing  
4 of terrorism”.

5 **SEC. 113. AMENDMENTS TO SECTION 2516(1) OF TITLE 18,**  
6 **UNITED STATES CODE.**

7 (a) PARAGRAPH (a) AMENDMENT.—Section  
8 2516(1)(a) of title 18, United States Code, is amended  
9 by inserting “chapter 10 (relating to biological weapons)”  
10 after “under the following chapters of this title:”.

11 (b) PARAGRAPH (c) AMENDMENT.—Section  
12 2516(1)(c) of title 18, United States Code, is amended—  
13 (1) by inserting “section 37 (relating to violence  
14 at international airports), section 43 (relating to ani-  
15 mal enterprise terrorism),” after “the following sec-  
16 tions of this title:”;

17 (2) by inserting “section 832 (relating to nu-  
18 clear and weapons of mass destruction threats), sec-  
19 tion 842 (relating to explosive materials), section  
20 930 (relating to possession of weapons in Federal fa-  
21 cilities),” after “section 751 (relating to escape),”;

22 (3) by inserting “section 1114 (relating to offi-  
23 cers and employees of the United States), section  
24 1116 (relating to protection of foreign officials),”





1 after "section 1014 (relating to loans and credit ap-  
2 plications generally; renewals and discounts),";

3 (4) by inserting "section 1992 (relating to ter-  
4 rorist attacks against mass transportation)," after  
5 "section 1344 (relating to bank fraud),";

6 (5) by inserting "section 2340A (relating to tor-  
7 ture)," after "section 2321 (relating to trafficking in  
8 certain motor vehicles or motor vehicle parts),";

9 (6) by inserting "section 81 (arson within spe-  
10 cial maritime and territorial jurisdiction)," before  
11 "section 201 (bribery of public officials and wit-  
12 nesses)"; and

13 (7) by inserting "section 956 (conspiracy to  
14 harm persons or property overseas)," after "section  
15 175c (relating to variola virus)".

16 (c) PARAGRAPH (g) AMENDMENT.—Section  
17 2516(1)(g) of title 18, United States Code, is amended  
18 by inserting before the semicolon " , or section 5324 of  
19 title 31, United States Code (relating to structuring trans-  
20 actions to evade reporting requirement prohibited)".

21 (d) PARAGRAPH (j) AMENDMENT.—Section  
22 2516(1)(j) of title 18, United States Code, is amended—

23 (1) by striking "or" before "section 46502 (re-  
24 lating to aircraft piracy)" and inserting a comma



1 after "section 60123(b) (relating to the destruction  
2 of a natural gas pipeline"; and

3 (2) by inserting ", the second sentence of sec-  
4 tion 46504 (relating to assault on a flight crew with  
5 dangerous weapon), or section 46505(b)(3) or (c)  
6 (relating to explosive or incendiary devices, or  
7 endangerment of human life, by means of weapons  
8 on aircraft)" before of "title 49".

9 (e) PARAGRAPH (p) AMENDMENT.—Section  
10 2516(1)(p) of title 18, United States Code, is amended  
11 by inserting ", section 1028A (relating to aggravated iden-  
12 tity theft)" after "other documents".

13 (f) PARAGRAPH (q) AMENDMENT.—Section  
14 2516(1)(q) of title 18, United States Code, is amended—

15 (1) by inserting "2339" after "2232h";  
16 (2) by striking "or" before "2339C"; and  
17 (3) by inserting ", or 2339D" after "2339C".

18 (g) AMENDMENT OF PREDICATE CRIMES FOR AU-  
19 THORIZATION FOR INTERCEPTION OF WIRE, ORAL, AND  
20 ELECTRONIC COMMUNICATIONS.—Section 2516(1) of title  
21 18, United State Code, is amended—

22 (1) in subparagraph (q), by striking "or" after  
23 the semicolon;

24 (2) by redesignating subparagraph (r) as sub-  
25 paragraph (s); and



1 (3) by adding after subparagraph (q) the fol-  
2 lowing:

3 “(r) any criminal violation of section 1 (relating  
4 to illegal restraints of trade or commerce), 2 (relat-  
5 ing to illegal monopolizing of trade or commerce), or  
6 3 (relating to illegal restraints of trade or commerce  
7 in territories or the District of Columbia) of the  
8 Sherman Act (15 U.S.C. 1, 2, 3); or”.

9 **SEC. 114. DELAYED NOTICE SEARCH WARRANTS.**

10 (a) **LIMITATION ON REASONABLE PERIOD FOR**  
11 **DELAY.**—Section 3103a of title 18, United States Code,  
12 is amended—

13 (1) by striking subsection (b)(3) and inserting  
14 the following:

15 “(3) the warrant provides for the giving of such  
16 notice within a reasonable period not to exceed 30  
17 days after the date of its execution, or on a later  
18 date certain if the facts of the case justify a longer  
19 period of delay. ”.

20 (2) by adding at the end the following:

21 “(c) **EXTENSIONS OF DELAY.**—Any period of delay  
22 authorized by this section may be extended by the court  
23 for good cause shown, subject to the condition that exten-  
24 sions should only be granted upon an updated showing of  
25 the need for further delay and that each additional delay



1 should be limited to periods of 90 days or less, unless the  
2 facts of the case justify a longer period of delay.”.

3 (b) LIMITATION ON AUTHORITY TO DELAY NOTICE  
4 —Section 3103a(b)(1) of title 18, United States Code,  
5 is amended by inserting “, except if the adverse results  
6 consist only of unduly delaying a trial” after “2705”.

7 (c) ENHANCED OVERSIGHT.—Section 3103a of title  
8 18, United States Code, is further amended by adding at  
9 the end the following:

10 “(d) REPORTS.—

11 “(1) REPORT BY JUDGE.—Not later than 30  
12 days after the expiration of a warrant authorizing  
13 delayed notice (including any extension thereof) en-  
14 tered under this section, or the denial of such war-  
15 rant (or request for extension), the issuing or deny-  
16 ing judge shall report to the Administrative Office of  
17 the United States Courts—

18 “(A) the fact that a warrant was applied  
19 for;

20 “(B) the fact that the warrant or any ex-  
21 tension thereof was granted as applied for, was  
22 modified, or was denied;

23 “(C) the period of delay in the giving of  
24 notice authorized by the warrant, and the num-  
25 ber and duration of any extensions; and

1           “(D) the offense specified in the warrant  
2           or application.

3           “(2) REPORT BY ADMINISTRATIVE OFFICE OF  
4           THE UNITED STATES COURTS.—Beginning with the  
5           fiscal year ending September 30, 2007, the Director  
6           of the Administrative Office of the United States  
7           Courts shall transmit to Congress annually a full  
8           and complete report summarizing the data required  
9           to be filed with the Administrative Office by para-  
10          graph (1), including the number of applications for  
11          warrants and extensions of warrants authorizing de-  
12          layed notice, and the number of such warrants and  
13          extensions granted or denied during the preceding  
14          fiscal year.

15          “(3) REGULATIONS.—The Director of the Ad-  
16          ministrative Office of the United States Courts, in  
17          consultation with the Attorney General, is author-  
18          ized to issue binding regulations dealing with the  
19          content and form of the reports required to be filed  
20          under paragraph (1).”.

21   **SEC. 115. JUDICIAL REVIEW OF NATIONAL SECURITY LET-**  
22                           **TERS.**

23          Chapter 223 of title 18, United States Code, is  
24          amended—

1 (1) by inserting at the end of the table of sec-  
2 tions the following new item:

“3511. Judicial review of requests for information.”;

3 and

4 (3) by inserting after section 3510 the fol-  
5 lowing:

6 **“§3511. Judicial review of requests for information**

7 “(a) The recipient of a request for records, a report,  
8 or other information under section 2709(b) of this title,  
9 section 626(a) or (b) or 627(a) of the Fair Credit Report-  
10 ing Act, section 1114(a)(5)(A) of the Right to Financial  
11 Privacy Act, or section 802(a) of the National Security  
12 Act of 1947 may, in the United States district court for  
13 the district in which that person or entity does business  
14 or resides, petition for an order modifying or setting aside  
15 the request. The court may modify or set aside the request  
16 if compliance would be unreasonable, oppressive, or other-  
17 wise unlawful.

18 “(b)(1) The recipient of a request for records, a re-  
19 port, or other information under section 2709(b) of this  
20 title, section 626(a) or (b) or 627(a) of the Fair Credit  
21 Reporting Act, section 1114(a)(5)(A) of the Right to Fi-  
22 nancial Privacy Act, or section 802(a) of the National Se-  
23 curity Act of 1947, may petition any court described in  
24 subsection (a) for an order modifying or setting aside a



1 nondisclosure requirement imposed in connection with  
2 such a request.

3       “(2) If the petition is filed within one year of the re-  
4 quest for records, a report, or other information under sec-  
5 tion 2709(b) of this title, section 626(a) or (b) or 627(a)  
6 of the Fair Credit Reporting Act, section 1114(a)(5)(A)  
7 of the Right to Financial Privacy Act, or section 802(a)  
8 of the National Security Act of 1947, the court may mod-  
9 ify or set aside such a nondisclosure requirement if it finds  
10 that there is no reason to believe that disclosure may en-  
11 danger the national security of the United States, inter-  
12 fere with a criminal, counterterrorism, or counterintel-  
13 ligence investigation, interfere with diplomatic relations,  
14 or endanger the life or physical safety of any person. If,  
15 at the time of the petition, the Attorney General, Deputy  
16 Attorney General, an Assistant Attorney General, or the  
17 Director of the Federal Bureau of Investigation, or in the  
18 case of a request by a department, agency, or instrumen-  
19 tality of the Federal Government other than the Depart-  
20 ment of Justice, the head or deputy head of such depart-  
21 ment, agency, or instrumentality, certifies that disclosure  
22 may endanger the national security of the United States  
23 or interfere with diplomatic relations, such certification  
24 shall be treated as conclusive unless the court finds that  
25 the certification was made in bad faith.



1       “(3) If the petition is filed one year or more after  
2 the request for records, a report, or other information  
3 under section 2709(b) of this title, section 626(a) or (b)  
4 or 627(a) of the Fair Credit Reporting Act, section 1114  
5 (a)(5)(A) of the Right to Financial Privacy Act, or section  
6 802(a) of the National Security Act of 1947, the Attorney  
7 General, Deputy Attorney General, an Assistant Attorney  
8 General, or the Director of the Federal Bureau of Inves-  
9 tigation, or his designee in a position not lower than Dep-  
10 uty Assistant Director at Bureau headquarters or a Spe-  
11 cial Agent in Charge in a Bureau field office designated  
12 by the Director, or in the case of a request by a depart-  
13 ment, agency, or instrumentality of the Federal Govern-  
14 ment other than the Federal Bureau of Investigation, the  
15 head or deputy head of such department, agency, or in-  
16 strumentality, within ninety days of the filing of the peti-  
17 tion, shall either terminate the nondisclosure requirement  
18 or re-certify that disclosure may result in a danger to the  
19 national security of the United States, interference with  
20 a criminal, counterterrorism, or counterintelligence inves-  
21 tigation, interference with diplomatic relations, or danger  
22 to the life or physical safety of any person. In the event  
23 of re-certification, the court may modify or set aside such  
24 a nondisclosure requirement if it finds that there is no  
25 reason to believe that disclosure may endanger the na-





1 tional security of the United States, interfere with a crimi-  
2 nal, counterterrorism, or counterintelligence investigation,  
3 interfere with diplomatic relations, or endanger the life or  
4 physical safety of any person. If the recertification that  
5 disclosure may endanger the national security of the  
6 United States or interfere with diplomatic relations is  
7 made by the Attorney General, Deputy Attorney General,  
8 an Assistant Attorney General, or the Director of the Fed-  
9 eral Bureau of Investigation, such certification shall be  
10 treated as conclusive unless the court finds that the recer-  
11 tification was made in bad faith. If the court denies a peti-  
12 tion for an order modifying or setting aside a nondisclo-  
13 sure requirement under this paragraph, the recipient shall  
14 be precluded for a period of one year from filing another  
15 petition to modify or set aside such nondisclosure require-  
16 ment.

17       “(c) In the case of a failure to comply with a request  
18 for records, a report, or other information made to any  
19 person or entity under section 2709(b) of this title, section  
20 626(a) or (b) or 627(a) of the Fair Credit Reporting Act,  
21 section 1114(a)(5)(A) of the Right to Financial Privacy  
22 Act, or section 802(a) of the National Security Act of  
23 1947, the Attorney General may invoke the aid of any dis-  
24 trict court of the United States within the jurisdiction in  
25 which the investigation is carried on or the person or enti-



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1 ty resides, carries on business, or may be found, to compel  
2 compliance with the request. The court may issue an order  
3 requiring the person or entity to comply with the request.  
4 Any failure to obey the order of the court may be punished  
5 by the court as contempt thereof. Any process under this  
6 section may be served in any judicial district in which the  
7 person or entity may be found.

8 “(d) In all proceedings under this section, subject to  
9 any right to an open hearing in a contempt proceeding,  
10 the court must close any hearing to the extent necessary  
11 to prevent an unauthorized disclosure of a request for  
12 records, a report, or other information made to any person  
13 or entity under section 2709(b) of this title, section 626(a)  
14 or (b) or 627(a) of the Fair Credit Reporting Act, section  
15 1114(a)(5)(A) of the Right to Financial Privacy Act, or  
16 section 802(a) of the National Security Act of 1947. Peti-  
17 tions, filings, records, orders, and subpoenas must also be  
18 kept under seal to the extent and as long as necessary  
19 to prevent the unauthorized disclosure of a request for  
20 records, a report, or other information made to any person  
21 or entity under section 2709(b) of this title, section 626(a)  
22 or (b) or 627(a) of the Fair Credit Reporting Act, section  
23 1114(a)(5)(A) of the Right to Financial Privacy Act, or  
24 section 802(a) of the National Security Act of 1947.



1       “(e) In all proceedings under this section, the court  
2 shall, upon request of the government, review ex parte and  
3 in camera any government submission or portions thereof,  
4 which may include classified information.”.

5       **SEC. 116. CONFIDENTIALITY OF NATIONAL SECURITY LET-**  
6                               **TERS.**

7       (a) Section 2709(c) of title 18, United States Code,  
8 is amended to read:

9       “(c) PROHIBITION OF CERTAIN DISCLOSURE.—

10               “(1) If the Director of the Federal Bureau of  
11 Investigation, or his designee in a position not lower  
12 than Deputy Assistant Director at Bureau head-  
13 quarters or a Special Agent in Charge in a Bureau  
14 field office designated by the Director, certifies that  
15 otherwise there may result a danger to the national  
16 security of the United States, interference with a  
17 criminal, counterterrorism, or counterintelligence in-  
18 vestigation, interference with diplomatic relations, or  
19 danger to the life or physical safety of any person,  
20 no wire or electronic communications service pro-  
21 vider, or officer, employee, or agent thereof, shall  
22 disclose to any person (other than those to whom  
23 such disclosure is necessary to comply with the re-  
24 quest or an attorney to obtain legal advice or legal  
25 assistance with respect to the request) that the Fed-



1 eral Bureau of Investigation has sought or obtained  
2 access to information or records under this section.

3 “(2) The request shall notify the person or enti-  
4 ty to whom the request is directed of the nondis-  
5 closure requirement under paragraph (1).

6 “(3) Any recipient disclosing to those persons  
7 necessary to comply with the request or to an attor-  
8 ney to obtain legal advice or legal assistance with re-  
9 spect to the request shall inform such person of any  
10 applicable nondisclosure requirement. Any person  
11 who receives a disclosure under this subsection shall  
12 be subject to the same prohibitions on disclosure  
13 under paragraph (1).

14 “(4) At the request of the Director of the Fed-  
15 eral Bureau of Investigation or the designee of the  
16 Director, any person making or intending to make  
17 a disclosure under this section shall identify to the  
18 Director or such designee the person to whom such  
19 disclosure will be made or to whom such disclosure  
20 was made prior to the request.”.

21 (b) Section 626(d) of the Fair Credit Reporting Act  
22 (15 U.S.C. 1681u(d)) is amended to read:

23 “(d) CONFIDENTIALITY.—

24 “(1) If the Director of the Federal Bureau of  
25 Investigation, or his designee in a position not lower



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1 than Deputy Assistant Director at Bureau head-  
2 quarters or a Special Agent in Charge in a Bureau  
3 field office designated by the Director, certifies that  
4 otherwise there may result a danger to the national  
5 security of the United States, interference with a  
6 criminal, counterterrorism, or counterintelligence in-  
7 vestigation, interference with diplomatic relations, or  
8 danger to the life or physical safety of any person,  
9 no consumer reporting agency or officer, employee,  
10 or agent of a consumer reporting agency shall dis-  
11 close to any person (other than those to whom such  
12 disclosure is necessary to comply with the request or  
13 an attorney to obtain legal advice or legal assistance  
14 with respect to the request) that the Federal Bureau  
15 of Investigation has sought or obtained the identity  
16 of financial institutions or a consumer report re-  
17 specting any consumer under subsection (a), (b), or  
18 (c), and no consumer reporting agency or officer,  
19 employee, or agent of a consumer reporting agency  
20 shall include in any consumer report any informa-  
21 tion that would indicate that the Federal Bureau of  
22 Investigation has sought or obtained such informa-  
23 tion on a consumer report.



1           “(2) The request shall notify the person or enti-  
2       ty to whom the request is directed of the nondisclo-  
3       sure requirement under paragraph (1).

4           “(3) Any recipient disclosing to those persons  
5       necessary to comply with the request or to an attor-  
6       ney to obtain legal advice or legal assistance with re-  
7       spect to the request shall inform such persons of any  
8       applicable nondisclosure requirement. Any person  
9       who receives a disclosure under this subsection shall  
10      be subject to the same prohibitions on disclosure  
11      under paragraph (1).

12          “(4) At the request of the Director of the Fed-  
13      eral Bureau of Investigation or the designee of the  
14      Director, any person making or intending to make  
15      a disclosure under this section shall identify to the  
16      Director or such designee the person to whom such  
17      disclosure will be made or to whom such disclosure  
18      was made prior to the request.”.

19      (c) Section 626(c) of the Fair Credit Reporting Act  
20      (15 U.S.C. 1681v(c)) is amended to read:

21      “(c) CONFIDENTIALITY.—

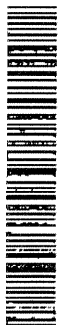
22          “(1) If the head of a government agency au-  
23      thorized to conduct investigations of intelligence or  
24      counterintelligence activities or analysis related to,  
25      international terrorism, or his designee, certifies that



1 otherwise there may result a danger to the national  
2 security of the United States, interference with a  
3 criminal, counterterrorism, or counterintelligence in-  
4 vestigation, interference with diplomatic relations, or  
5 danger to the life or physical safety of any person,  
6 no consumer reporting agency or officer, employee,  
7 or agent of such consumer reporting agency, shall  
8 disclose to any person (other than those to whom  
9 such disclosure is necessary to comply with the re-  
10 quest or an attorney to obtain legal advice or legal  
11 assistance with respect to the request), or specify in  
12 any consumer report, that a government agency has  
13 sought or obtained access to information under sub-  
14 section (a).

15 “(2) The request shall notify the person or enti-  
16 ty to whom the request is directed of the nondisclo-  
17 sure requirement under paragraph (1).

18 “(3) Any recipient disclosing to those persons  
19 necessary to comply with the request or to any attor-  
20 ney to obtain legal advice or legal assistance with re-  
21 spect to the request shall inform such persons of any  
22 applicable nondisclosure requirement. Any person  
23 who receives a disclosure under this subsection shall  
24 be subject to the same prohibitions on disclosure  
25 under paragraph (1).



1           “(4) At the request of the authorized Govern-  
2           ment agency, any person making or intending to  
3           make a disclosure under this section shall identify to  
4           the requesting official of the authorized Government  
5           agency the person to whom such disclosure will be  
6           made or to whom such disclosure was made prior to  
7           the request.”.

8           (d) Section 1114(a)(3) of the Right to Financial Pri-  
9           vacy Act (12 U.S.C. 3414(a)(3)) is amended to read as  
10          follows:

11           “(3)(A) If the Government authority described  
12           in paragraph (1) or the Secret Service, as the case  
13           may be, certifies that otherwise there may result a  
14           danger to the national security of the United States,  
15           interference with a criminal, counterterrorism, or  
16           counterintelligence investigation, interference with  
17           diplomatic relations, or danger to the life or physical  
18           safety of any person, no financial institution, or offi-  
19           cer, employee, or agent of such institution, shall dis-  
20           close to any person (other than those to whom such  
21           disclosure is necessary to comply with the request or  
22           an attorney to obtain legal advice or legal assistance  
23           with respect to the request) that the Government au-  
24           thority or the Secret Service has sought or obtained  
25           access to a customer’s financial records.



1           “(B) The request shall notify the person or en-  
2           tity to whom the request is directed of the nondisclo-  
3           sure requirement under subparagraph (A).

4           “(C) Any recipient disclosing to those persons  
5           necessary to comply with the request or to an attor-  
6           ney to obtain legal advice or legal assistance with re-  
7           spect to the request shall inform such persons of any  
8           applicable nondisclosure requirement. Any person  
9           who receives a disclosure under this subsection shall  
10          be subject to the same prohibitions on disclosure  
11          under subparagraph (A).

12          “(D) At the request of the authorized Govern-  
13          ment agency or the Secret Service, any person mak-  
14          ing or intending to make a disclosure under this sec-  
15          tion shall identify to the requesting official of the  
16          authorized Government agency or the Secret Service  
17          the person to whom such disclosure will be made or  
18          to whom such disclosure was made prior to the re-  
19          quest.”.

20          (e) Section 1114(a)(5)(D) of the Right to Financial  
21          Privacy Act (12 U.S.C. 3414(a)(5)(D)) is amended to  
22          read:

23                       “(D) PROHIBITION OF CERTAIN DISCLO-  
24                       SURE.—



1           “(i) If the Director of the Federal Bu-  
2           reau of Investigation, or his designee in a  
3           position not lower than Deputy Assistant  
4           Director at Bureau headquarters or a Spe-  
5           cial Agent in Charge in a Bureau field of-  
6           fice designated by the Director, certifies  
7           that otherwise there may result a danger  
8           to the national security of the United  
9           States, interference with a criminal,  
10          counterterrorism, or counterintelligence in-  
11          vestigation, interference with diplomatic re-  
12          lations, or danger to the life or physical  
13          safety of any person, no financial institu-  
14          tion, or officer, employee, or agent of such  
15          institution, shall disclose to any person  
16          (other than those to whom such disclosure  
17          is necessary to comply with the request or  
18          an attorney to obtain legal advice or legal  
19          assistance with respect to the request) that  
20          the Federal Bureau of Investigation has  
21          sought or obtained access to a customer’s  
22          or entity’s financial records under subpara-  
23          graph (A).

24               “(ii) The request shall notify the per-  
25          son or entity to whom the request is di-

1           rected of the nondisclosure requirement  
2           under clause (i).

3           “(iii) Any recipient disclosing to those  
4           persons necessary to comply with the re-  
5           quest or to an attorney to obtain legal ad-  
6           vice or legal assistance with respect to the  
7           request shall inform such persons of any  
8           applicable nondisclosure requirement. Any  
9           person who receives a disclosure under this  
10          subsection shall be subject to the same  
11          prohibitions on disclosure under clause (i).

12          “(iv) At the request of the Director of  
13          the Federal Bureau of Investigation or the  
14          designee of the Director, any person mak-  
15          ing or intending to make a disclosure  
16          under this section shall identify to the Di-  
17          rector or such designee the person to  
18          whom such disclosure will be made or to  
19          whom such disclosure was made prior to  
20          the request.”.

21          (f) Section 802(b) of the National Security Act of  
22          1947 (50 U.S.C. 436(b)) is amended to read as follows:

23          “(b) PROHIBITION OF CERTAIN DISCLOSURE.—

24                 “(1) If an authorized investigative agency de-  
25          scribed in subsection (a) certifies that otherwise



1       there may result a danger to the national security of  
2       the United States, interference with a criminal,  
3       counterterrorism, or counterintelligence investiga-  
4       tion, interference with diplomatic relations, or dan-  
5       ger to the life or physical safety of any person, no  
6       governmental or private entity, or officer, employee,  
7       or agent of such entity, may disclose to any person  
8       (other than those to whom such disclosure is nec-  
9       essary to comply with the request or an attorney to  
10      obtain legal advice or legal assistance with respect to  
11      the request) that such entity has received or satis-  
12      fied a request made by an authorized investigative  
13      agency under this section.

14           “(2) The request shall notify the person or enti-  
15      ty to whom the request is directed of the nondisclo-  
16      sure requirement under paragraph (1).

17           “(3) Any recipient disclosing to those persons  
18      necessary to comply with the request or to an attor-  
19      ney to obtain legal advice or legal assistance with re-  
20      spect to the request shall inform such persons of any  
21      applicable nondisclosure requirement. Any person  
22      who receives a disclosure under this subsection shall  
23      be subject to the same prohibitions on disclosure  
24      under paragraph (1).



1           “(4) At the request of the authorized investiga-  
2           tive agency, any person making or intending to  
3           make a disclosure under this section shall identify to  
4           the requesting official of the authorized investigative  
5           agency the person to whom such disclosure will be  
6           made or to whom such disclosure was made prior to  
7           the request. ”.

8   **SEC. 117. VIOLATIONS OF NONDISCLOSURE PROVISIONS OF**  
9           **NATIONAL SECURITY LETTERS.**

10          Section 1510 of title 18, United States Code, is  
11          amended by adding at the end the following:

12          “(e) Whoever, having been notified of the applicable  
13          disclosure prohibitions or confidentiality requirements of  
14          section 2709(c)(1) of this title, section 626(d)(1) or  
15          627(c)(1) of the Fair Credit Reporting Act (15 U.S.C.  
16          1681u(d)(1) or 1681v(c)(1)), section 1114(a)(3)(A) or  
17          1114(a)(5)(D)(i) of the Right to Financial Privacy Act  
18          (12 U.S.C. 3414(a)(3)(A) or 3414(a)(5)(D)(i)), or section  
19          802(b)(1) of the National Security Act of 1947 (50 U.S.C.  
20          436(b)(1)), knowingly and willfully violates such prohibi-  
21          tions or requirements applicable by law to such person  
22          shall be imprisoned for not more than one year, fined  
23          under this title, or both, or if the violation is knowingly  
24          committed with the intent to obstruct an investigation or



1 judicial proceeding for not more than five years, fined  
2 under this title, or both.”.

3 **SEC. 118. REPORTS ON NATIONAL SECURITY LETTERS.**

4 (a) **EXISTING REPORTS.**—Any report made to a com-  
5 mittee of Congress regarding national security letters  
6 under section 2709(c)(1) of title 18, United States Code,  
7 sections 626(d) or 627(c) of the Fair Credit Reporting Act  
8 (15 U.S.C. 1681u(d) or 1681v(c)), section 1114(a)(3) or  
9 1114(a)(5)(D) of the Right to Financial Privacy Act (12  
10 U.S.C. 3414(a)(3) or 3414(a)(5)(D)), or section 802(b)  
11 of the National Security Act of 1947 (50 U.S.C. 436(b))  
12 shall also be made to the Committees on the Judiciary  
13 of the House of Representatives and the Senate.

14 (b) **ENHANCED OVERSIGHT OF FAIR CREDIT RE-**  
15 **PORTING ACT COUNTERTERRORISM NATIONAL SECURITY**  
16 **LETTER.**—Section 627 of the Fair Credit Reporting Act  
17 (15 U.S.C. 1681(v)) is amended by inserting at the end  
18 the following new subsection:

19 “(f) **REPORTS TO CONGRESS.**—(1) On a semi-annual  
20 basis, the Attorney General shall fully inform the Com-  
21 mittee on the Judiciary, the Committee on Financial Serv-  
22 ices, and the Permanent Select Committee on Intelligence  
23 of the House of Representatives and the Committee on  
24 the Judiciary, the Committee on Banking, Housing, and  
25 Urban Affairs, and the Select Committee on Intelligence



1 of the Senate concerning all requests made pursuant to  
2 subsection (a).

3 “(2) In the case of the seminannual reports required  
4 to be submitted under paragraph (1) to the Permanent  
5 Select Committee on Intelligence of the House of Rep-  
6 resentatives and the Select Committee on Intelligence of  
7 the Senate, the submittal dates for such reports shall be  
8 as provided in section 507 of the National Security Act  
9 of 1947 (50 U.S.C. 415b).”.

10 (c) REPORT ON REQUESTS FOR NATIONAL SECURITY  
11 LETTERS.—

12 (1) IN GENERAL.—In April of each year, the  
13 Attorney General shall submit to Congress an aggre-  
14 gate report setting forth with respect to the pre-  
15 ceding year the total number of requests made by  
16 the Department of Justice for information con-  
17 cerning different United States persons under—

18 (A) section 2709 of title 18, United States  
19 Code (to access certain communication service  
20 provider records), excluding the number of re-  
21 quests for subscriber information;

22 (B) section 1114 of the Right to Financial  
23 Privacy Act (12 U.S.C. 3414) (to obtain finan-  
24 cial institution customer records);



1 (C) section 802 of the National Security  
2 Act of 1947 (50 U.S.C. 436) (to obtain finan-  
3 cial information, records, and consumer re-  
4 ports);

5 (D) section 626 of the Fair Credit Report-  
6 ing Act (15 U.S.C. 1681u) (to obtain certain fi-  
7 nancial information and consumer reports); and

8 (E) section 627 of the Fair Credit Report-  
9 ing Act (15 U.S.C. 1681v) (to obtain credit  
10 agency consumer records for counterterrorism  
11 investigations).

12 (2) UNCLASSIFIED FORM.—The report under  
13 this section shall be submitted in unclassified form.

14 (d) NATIONAL SECURITY LETTER DEFINED.—In  
15 this section, the term “national security letter” means a  
16 request for information under one of the following provi-  
17 sions of law:

18 (1) Section 2709(a) of title 18, United States  
19 Code (to access certain communication service pro-  
20 vider records).

21 (2) Section 1114(a)(5)(A) of the Right to Fi-  
22 nancial Privacy Act (12 U.S.C. 3414(a)(5)(A)) (to  
23 obtain financial institution customer records).



1 (3) Section 802 of the National Security Act of  
2 1947 (50 U.S.C. 436) (to obtain financial informa-  
3 tion, records, and consumer reports).

4 (4) Section 626 of the Fair Credit Reporting  
5 Act (15 U.S.C. 1681u) (to obtain certain financial  
6 information and consumer reports).

7 (5) Section 627 of the Fair Credit Reporting  
8 Act (15 U.S.C. 1681v) (to obtain credit agency con-  
9 sumer records for counterterrorism investigations).

10 **SEC. 119. AUDIT OF USE OF NATIONAL SECURITY LETTERS.**

11 (a) **AUDIT.**—The Inspector General of the Depart-  
12 ment of Justice shall perform an audit of the effectiveness  
13 and use, including any improper or illegal use, of national  
14 security letters issued by the Department of Justice.

15 (b) **REQUIREMENTS.**—The audit required under sub-  
16 section (a) shall include—

17 (1) an examination of the use of national secu-  
18 rity letters by the Department of Justice during cal-  
19 endar years 2003 through 2006;

20 (2) a description of any noteworthy facts or cir-  
21 cumstances relating to such use, including any im-  
22 proper or illegal use of such authority; and

23 (3) an examination of the effectiveness of na-  
24 tional security letters as an investigative tool,  
25 including—

1 (A) the importance of the information ac-  
2 quired by the Department of Justice to the in-  
3 telligence activities of the Department of Jus-  
4 tice or to any other department or agency of  
5 the Federal Government;

6 (B) the manner in which such information  
7 is collected, retained, analyzed, and dissemi-  
8 nated by the Department of Justice, including  
9 any direct access to such information (such as  
10 access to "raw data") provided to any other de-  
11 partment, agency, or instrumentality of Fed-  
12 eral, State, local, or tribal governments or any  
13 private sector entity;

14 (C) whether, and how often, the Depart-  
15 ment of Justice utilized such information to  
16 produce an analytical intelligence product for  
17 distribution within the Department of Justice,  
18 to the intelligence community (as such term is  
19 defined in section 3(4) of the National Security  
20 Act of 1947 (50 U.S.C. 401a(4))), or to other  
21 Federal, State, local, or tribal government de-  
22 partments, agencies, or instrumentalities;

23 (D) whether, and how often, the Depart-  
24 ment of Justice provided such information to



1 law enforcement authorities for use in criminal  
2 proceedings;

3 (E) with respect to national security letters  
4 issued following the date of the enactment of  
5 this Act, an examination of the number of occa-  
6 sions in which the Department of Justice, or an  
7 officer or employee of the Department of Jus-  
8 tice, issued a national security letter without  
9 the certification necessary to require the recipi-  
10 ent of such letter to comply with the nondiscl-  
11 sure and confidentiality requirements poten-  
12 tially applicable under law; and

13 (F) the types of electronic communications  
14 and transactional information obtained through  
15 requests for information under section 2709 of  
16 title 18, United States Code, including the  
17 types of dialing, routing, addressing, or sig-  
18 naling information obtained, and the procedures  
19 the Department of Justice uses if content infor-  
20 mation is obtained through the use of such au-  
21 thority.

22 (c) SUBMISSION DATES.—

23 (1) PRIOR YEARS.—Not later than one year  
24 after the date of the enactment of this Act, or upon  
25 completion of the audit under this section for cal-

1       endar years 2003 and 2004, whichever is earlier, the  
2       Inspector General of the Department of Justice shall  
3       submit to the Committee on the Judiciary and the  
4       Permanent Select Committee on Intelligence of the  
5       House of Representatives and the Committee on the  
6       Judiciary and the Select Committee on Intelligence  
7       of the Senate a report containing the results of the  
8       audit conducted under this subsection for calendar  
9       years 2003 and 2004.

10       (2) CALENDAR YEARS 2005 AND 2006.—Not  
11       later than December 31, 2007, or upon completion  
12       of the audit under this subsection for calendar years  
13       2005 and 2006, whichever is earlier, the Inspector  
14       General of the Department of Justice shall submit  
15       to the Committee on the Judiciary and the Perma-  
16       nent Select Committee on Intelligence of the House  
17       of Representatives and the Committee on the Judici-  
18       ary and the Select Committee on Intelligence of the  
19       Senate a report containing the results of the audit  
20       conducted under this subsection for calendar years  
21       2005 and 2006.

22       (d) PRIOR NOTICE TO ATTORNEY GENERAL AND DI-  
23       RECTOR OF NATIONAL INTELLIGENCE; COMMENTS.—

24       (1) NOTICE.—Not less than 30 days before the  
25       submission of a report under paragraphs (3)(A) or



1 (3)(B), the Inspector General of the Department of  
2 Justice shall provide such report to the Attorney  
3 General and the Director of National Intelligence.

4 (2) COMMENTS.—The Attorney General or the  
5 Director of National Intelligence may provide com-  
6 ments to be included in the reports submitted under  
7 paragraphs (3)(A) or (3)(B) as the Attorney General  
8 or the Director of National Intelligence may consider  
9 necessary.

10 (c) UNCLASSIFIED FORM.—The reports submitted  
11 under paragraphs (3)(A) or (3)(B) and any comments in-  
12 cluded under paragraph (4)(B) shall be in unclassified  
13 form, but may include a classified annex.

14 (f) MINIMIZATION PROCEDURES FEASIBILITY.—Not  
15 later than February 1, 2007, or upon completion of review  
16 of the report submitted under paragraph (3)(A), which-  
17 ever is earlier, the Attorney General and the Director of  
18 National Intelligence shall jointly submit to the Committee  
19 on the Judiciary and Permanent Select Committee on In-  
20 telligence of the House of Representatives and the Com-  
21 mittee on the Judiciary and Select Committee on Intel-  
22 ligence of the Senate a report on the feasibility of applying  
23 minimization procedures in the context of national secu-  
24 rity letters to ensure the protection of the constitutional  
25 rights of United States persons.



1 (g) NATIONAL SECURITY LETTER DEFINED.—In  
2 this section, the term “national security letter” means a  
3 request for information under one of the following provi-  
4 sions of law:

5 (1) Section 2709(a) of title 18, United States  
6 Code (to access certain communication service pro-  
7 vider records).

8 (2) Section 1114(a)(5)(A) of the Right to Fi-  
9 nancial Privacy Act (12 U.S.C. 3414(a)(5)(A)) (to  
10 obtain financial institution customer records).

11 (3) Section 802 of the National Security Act of  
12 1947 (50 U.S.C. 436) (to obtain financial informa-  
13 tion, records, and consumer reports).

14 (4) Section 626 of the Fair Credit Reporting  
15 Act (15 U.S.C. 1681u) (to obtain certain financial  
16 information and consumer reports).

17 (5) Section 627 of the Fair Credit Reporting  
18 Act (15 U.S.C. 1681v) (to obtain credit agency con-  
19 sumer records for counterterrorism investigations).

20 **SEC. 120. DEFINITION FOR FORFEITURE PROVISIONS**

21 **UNDER SECTION 806 OF THE USA PATRIOT**  
22 **ACT.**

23 Section 981(a)(1)(G) of title 18, United States Code,  
24 is amended—

1 (1) in clause (i), by striking “act of inter-  
2 national or domestic terrorism (as defined in section  
3 2331)” and inserting “any Federal crime of ter-  
4 rorism (as defined in section 2332b(g)(5))”;

5 (2) in clause (ii), by striking “an act of inter-  
6 national or domestic terrorism (as defined in section  
7 2331)” with “any Federal crime of terrorism (as de-  
8 fined in section 2332b(g)(5))”; and

9 (3) in clause (iii), by striking “act of inter-  
10 national or domestic terrorism (as defined in section  
11 2331)” and inserting “Federal crime of terrorism  
12 (as defined in section 2332b(g)(5))”.

13 **SEC. 121. PENAL PROVISIONS REGARDING TRAFFICKING IN**  
14 **CONTRABAND CIGARETTES OR SMOKELESS**  
15 **TOBACCO.**

16 (a) **THRESHOLD QUANTITY FOR TREATMENT AS**  
17 **CONTRABAND CIGARETTES.**—(1) Section 2341(2) of title  
18 18, United States Code, is amended by striking “60,000  
19 cigarettes” and inserting “10,000 cigarettes”.

20 (2) Section 2342(b) of that title is amended by strik-  
21 ing “60,000” and inserting “10,000”.

22 (3) Section 2343 of that title is amended—

23 (A) in subsection (a), by striking “60,000” and  
24 inserting “10,000”; and



1 (B) in subsection (b), by striking “60,000” and  
2 inserting “10,000”.

3 (b) CONTRABAND SMOKELESS TOBACCO.—(1) Sec-  
4 tion 2341 of that title is amended—

5 (A) in paragraph (4), by striking “and” at the  
6 end;

7 (B) in paragraph (5), by striking the period at  
8 the end and inserting a semicolon; and

9 (C) by adding at the end the following new  
10 paragraphs:

11 “(6) the term ‘smokeless tobacco’ means any  
12 finely cut, ground, powdered, or leaf tobacco that is  
13 intended to be placed in the oral or nasal cavity or  
14 otherwise consumed without being combusted;

15 “(7) the term ‘contraband smokeless tobacco’  
16 means a quantity in excess of 500 single-unit con-  
17 sumer-sized cans or packages of smokeless tobacco,  
18 or their equivalent, that are in the possession of any  
19 person other than—

20 “(A) a person holding a permit issued pur-  
21 suant to chapter 52 of the Internal Revenue  
22 Code of 1986 as manufacturer of tobacco prod-  
23 ucts or as an export warehouse proprietor, a  
24 person operating a customs bonded warehouse  
25 pursuant to section 311 or 555 of the Tariff





1 Act of 1930 (19 U.S.C. 1311, 1555), or an  
2 agent of such person;

3 “(B) a common carrier transporting such  
4 smokeless tobacco under a proper bill of lading  
5 or freight bill which states the quantity, source,  
6 and designation of such smokeless tobacco;

7 “(C) a person who—

8 “(i) is licensed or otherwise author-  
9 ized by the State where such smokeless to-  
10 bacco is found to engage in the business of  
11 selling or distributing tobacco products;  
12 and

13 “(ii) has complied with the account-  
14 ing, tax, and payment requirements relat-  
15 ing to such license or authorization with  
16 respect to such smokeless tobacco; or

17 “(D) an officer, employee, or agent of the  
18 United States or a State, or any department,  
19 agency, or instrumentality of the United States  
20 or a State (including any political subdivision of  
21 a State), having possession of such smokeless  
22 tobacco in connection with the performance of  
23 official duties;”.



1 (2) Section 2342(a) of that title is amended by insert-  
2 ing “or contraband smokeless tobacco” after “contraband  
3 cigarettes”.

4 (3) Section 2343(a) of that title is amended by insert-  
5 ing “, or any quantity of smokeless tobacco in excess of  
6 500 single-unit consumer-sized cans or packages,” before  
7 “in a single transaction”.

8 (4) Section 2344(c) of that title is amended by insert-  
9 ing “or contraband smokeless tobacco” after “contraband  
10 cigarettes”.

11 (5) Section 2345 of that title is amended by inserting  
12 “or smokeless tobacco” after “cigarettes” each place it ap-  
13 pears.

14 (6) Section 2341 of that title is further amended in  
15 paragraph (2), as amended by subsection (a)(1) of this  
16 section, in the matter preceding subparagraph (A), by  
17 striking “State cigarette taxes in the State where such  
18 cigarettes are found, if the State” and inserting “State  
19 or local cigarette taxes in the State or locality where such  
20 cigarettes are found, if the State or local government”.

21 (c) RECORDKEEPING, REPORTING, AND INSPEC-  
22 TION.—Section 2343 of that title, as amended by this sec-  
23 tion, is further amended—

24 (1) in subsection (a)—



1 (A) in the matter preceding paragraph (1),  
2 by striking “only—” and inserting “such infor-  
3 mation as the Attorney General considers ap-  
4 propriate for purposes of enforcement of this  
5 chapter, including—”; and

6 (B) in the flush matter following para-  
7 graph (3), by striking the second sentence;

8 (2) by redesignating subsection (b) as sub-  
9 section (c);

10 (3) by inserting after subsection (a) the fol-  
11 lowing new subsection (b):

12 “(b) Any person, except for a tribal government, who  
13 engages in a delivery sale, and who ships, sells, or distrib-  
14 utes any quantity in excess of 10,000 cigarettes, or any  
15 quantity in excess of 500 single-unit consumer-sized cans  
16 or packages of smokeless tobacco, or their equivalent,  
17 within a single month, shall submit to the Attorney Gen-  
18 eral, pursuant to rules or regulations prescribed by the  
19 Attorney General, a report that sets forth the following:

20 “(1) The person’s beginning and ending inven-  
21 tory of cigarettes and cans or packages of smokeless  
22 tobacco (in total) for such month.

23 “(2) The total quantity of cigarettes and cans  
24 or packages of smokeless tobacco that the person re-



1       ceived within such month from each other person  
2       (itemized by name and address).

3           “(3) The total quantity of cigarettes and cans  
4       or packages of smokeless tobacco that the person  
5       distributed within such month to each person  
6       (itemized by name and address) other than a retail  
7       purchaser.”; and

8           (4) by adding at the end the following new sub-  
9       sections:

10       “(d) Any report required to be submitted under this  
11       chapter to the Attorney General shall also be submitted  
12       to the Secretary of the Treasury and to the attorneys gen-  
13       eral and the tax administrators of the States from where  
14       the shipments, deliveries, or distributions both originated  
15       and concluded.

16       “(e) In this section, the term ‘delivery sale’ means  
17       any sale of cigarettes or smokeless tobacco in interstate  
18       commerce to a consumer if—

19           “(1) the consumer submits the order for such  
20       sale by means of a telephone or other method of  
21       voice transmission, the mails, or the Internet or  
22       other online service, or by any other means where  
23       the consumer is not in the same physical location as  
24       the seller when the purchase or offer of sale is made;  
25       or



1           “(2) the cigarettes or smokeless tobacco are de-  
2       livered by use of the mails, common carrier, private  
3       delivery service, or any other means where the con-  
4       sumer is not in the same physical location as the  
5       seller when the consumer obtains physical possession  
6       of the cigarettes or smokeless tobacco.

7           “(f) In this section, the term ‘interstate commerce’  
8       means commerce between a State and any place outside  
9       the State, or commerce between points in the same State  
10      but through any place outside the State.”.

11       (d) DISPOSAL OR USE OF FORFEITED CIGARETTES  
12      AND SMOKELESS TOBACCO.—Section 2344(c) of that  
13      title, as amended by this section, is further amended by  
14      striking “seizure and forfeiture,” and all that follows and  
15      inserting “ “seizure and forfeiture. The provisions of chap-  
16      ter 46 of title 18 relating to civil forfeitures shall extend  
17      to any seizure or civil forfeiture under this section. Any  
18      cigarettes or smokeless tobacco so seized and forfeited  
19      shall be either—

20           “(1) destroyed and not resold; or

21           “(2) used for undercover investigative oper-  
22      ations for the detection and prosecution of crimes,  
23      and then destroyed and not resold.”.

24       (c) EFFECT ON STATE AND LOCAL LAW.—Section  
25      2345 of that title is amended—

1 (1) in subsection (a), by striking “a State to  
2 enact and enforce” and inserting “a State or local  
3 government to enact and enforce its own”; and

4 (2) in subsection (b), by striking “of States,  
5 through interstate compact or otherwise, to provide  
6 for the administration of State” and inserting “of  
7 State or local governments, through interstate com-  
8 pact or otherwise, to provide for the administration  
9 of State or local”.

10 (f) ENFORCEMENT.—Section 2346 of that title is  
11 amended—

12 (1) by inserting “(a)” before “The Attorney  
13 General”; and

14 (2) by adding at the end the following new sub-  
15 section:

16 “(b)(1) A State, through its attorney general, a local  
17 government, through its chief law enforcement officer (or  
18 a designee thereof), or any person who holds a permit  
19 under chapter 52 of the Internal Revenue Code of 1986,  
20 may bring an action in the United States district courts  
21 to prevent and restrain violations of this chapter by any  
22 person (or by any person controlling such person), except  
23 that any person who holds a permit under chapter 52 of  
24 the Internal Revenue Code of 1986 may not bring such  
25 an action against a State or local government. No civil



1 action may be commenced under this paragraph against  
2 an Indian tribe or an Indian in Indian country (as defined  
3 in section 1151).

4 “(2) A State, through its attorney general, or a local  
5 government, through its chief law enforcement officer (or  
6 a designee thereof), may in a civil action under paragraph  
7 (1) also obtain any other appropriate relief for violations  
8 of this chapter from any person (or by any person control-  
9 ling such person), including civil penalties, money dam-  
10 ages, and injunctive or other equitable relief. Nothing in  
11 this chapter shall be deemed to abrogate or constitute a  
12 waiver of any sovereign immunity of a State or local gov-  
13 ernment, or an Indian tribe against any unconsented law-  
14 suit under this chapter, or otherwise to restrict, expand,  
15 or modify any sovereign immunity of a State or local gov-  
16 ernment, or an Indian tribe.

17 “(3) The remedies under paragraphs (1) and (2) are  
18 in addition to any other remedies under Federal, State,  
19 local, or other law.

20 “(4) Nothing in this chapter shall be construed to  
21 expand, restrict, or otherwise modify any right of an au-  
22 thorized State official to proceed in State court, or take  
23 other enforcement actions, on the basis of an alleged viola-  
24 tion of State or other law.



1       “(5) Nothing in this chapter shall be construed to  
2 expand, restrict, or otherwise modify any right of an au-  
3 thorized local government official to proceed in State  
4 court, or take other enforcement actions, on the basis of  
5 an alleged violation of local or other law.”.

6       (g) CONFORMING AND CLERICAL AMENDMENTS.—

7       (1) The section heading for section 2343 of that title is  
8 amended to read as follows:

9       **“§ 2343. Recordkeeping, reporting, and inspection”.**

10       (2) The section heading for section 2345 of such title  
11 is amended to read as follows:

12       **“§ 2345. Effect on State and local law”.**

13       (3) The table of sections at the beginning of chapter  
14 114 of that title is amended—

15               (A) by striking the item relating to section  
16 2343 and inserting the following new item:

      “2343. Recordkeeping, reporting, and inspection.”;

17       and

18               (B) by striking the item relating to section  
19 2345 and insert the following new item:

      “2345. Effect on State and local law.”.

20       (4)(A) The heading for chapter 114 of that title is  
21 amended to read as follows:





1 **"CHAPTER 114—TRAFFICKING IN CONTRA-**  
2 **BAND CIGARETTES AND SMOKELESS**  
3 **TOBACCO".**

4 (B) The table of chapters at the beginning of part  
5 I of that title is amended by striking the item relating  
6 to section 114 and inserting the following new item:

**"114. Trafficking in contraband cigarettes and smokeless  
tobacco ..... 2341."**

7 **SEC. 122. PROHIBITION OF NARCO-TERRORISM.**

8 Part A of the Controlled Substance Import and Ex-  
9 port Act (21 U.S.C. 951 et seq.) is amended by inserting  
10 after section 1010 the following:

11 "FOREIGN TERRORIST ORGANIZATIONS, TERRORIST

12 PERSONS AND GROUPS

13 "Prohibited Acts

14 "SEC. 1010A. (a) Whoever engages in conduct that  
15 would be punishable under section 841(a) of this title if  
16 committed within the jurisdiction of the United States, or  
17 attempts or conspires to do so, knowing or intending to  
18 provide, directly or indirectly, anything of pecuniary value  
19 to any person or organization that has engaged or engages  
20 in terrorist activity (as defined in section 212(a)(3)(B) of  
21 the Immigration and Nationality Act) or terrorism (as de-  
22 fined in section 140(d)(2) of the Foreign Relations Au-  
23 thorization Act, Fiscal Years 1988 and 1989), shall be  
24 sentenced to a term of imprisonment of not less than twice

1 the minimum punishment under section 841(b)(1), and  
2 not more than life, a fine in accordance with the provisions  
3 of title 18, United States Code, or both. Notwithstanding  
4 section 3583 of title 18, United States Code, any sentence  
5 imposed under this subsection shall include a term of su-  
6 pervised release of at least 5 years in addition to such term  
7 of imprisonment.

8 "Jurisdiction

9 "(b) There is jurisdiction over an offense under this  
10 section if—

11 "(1) the prohibited drug activity or the terrorist  
12 offense is in violation of the criminal laws of the  
13 United States;

14 "(2) the offense, the prohibited drug activity, or  
15 the terrorist offense occurs in or affects interstate or  
16 foreign commerce;

17 "(3) an offender provides anything of pecuniary  
18 value for a terrorist offense that causes or is de-  
19 signed to cause death or serious bodily injury to a  
20 national of the United States while that national is  
21 outside the United States, or substantial damage to  
22 the property of a legal entity organized under the  
23 laws of the United States (including any of its  
24 States, districts, commonwealths, territorics, or pos-



1 sessions) while that property is outside of the United  
2 States;

3 “(4) the offense or the prohibited drug activity  
4 occurs in whole or in part outside of the United  
5 States (including on the high seas), and a perpe-  
6 trator of the offense or the prohibited drug activity  
7 is a national of the United States or a legal entity  
8 organized under the laws of the United States (in-  
9 cluding any of its States, districts, commonwealths,  
10 territories, or possessions); or

11 “(5) after the conduct required for the offense  
12 occurs an offender is brought into or found in the  
13 United States, even if the conduct required for the  
14 offense occurs outside the United States.

15 “Proof Requirements

16 “(c) To violate subsection (a), a person must have  
17 knowledge that the person or organization has engaged or  
18 engages in terrorist activity (as defined in section  
19 212(a)(3)(B) of the Immigration and Nationality Act) or  
20 terrorism (as defined in section 140(d)(2) of the Foreign  
21 Relations Authorization Act, Fiscal Years 1988 and  
22 1989).



1 "Definition

2 "(d) As used in this section, the term 'anything of  
3 pecuniary value' has the meaning given the term in section  
4 1958(b)(1) of title 18, United States Code."

5 **SEC. 123. INTERFERING WITH THE OPERATION OF AN AIR-**  
6 **CRAFT.**

7 Section 32 of title 18, United States Code, is  
8 amended—

9 (1) in subsection (a), by redesignating para-  
10 graphs (5), (6), and (7) as paragraphs (6), (7), and  
11 (8) respectively;

12 (2) by inserting after paragraph (4) of sub-  
13 section (a), the following:

14 "(5) interferes with or disables, with intent to  
15 endanger the safety of any person or with a reckless  
16 disregard for the safety of human life, anyone en-  
17 gaged in the authorized operation of such aircraft or  
18 any air navigation facility aiding in the navigation of  
19 any such aircraft;";

20 (3) in subsection (a)(8), by striking "para-  
21 graphs (1) through (6)" and inserting "paragraphs  
22 (1) through (7)"; and

23 (4) in subsection (c), by striking "paragraphs  
24 (1) through (5)" and inserting "paragraphs (1)  
25 through (6)".

1 SEC. 124. SENSE OF CONGRESS RELATING TO LAWFUL PO-  
2 LITICAL ACTIVITY.

3 It is the sense of Congress that government should  
4 not investigate an American citizen solely on the basis of  
5 the citizen's membership in a non-violent political organi-  
6 zation or the fact that the citizen was engaging in other  
7 lawful political activity.

8 SEC. 125. REMOVAL OF CIVIL LIABILITY BARRIERS THAT  
9 DISCOURAGE THE DONATION OF FIRE EQUIP-  
10 MENT TO VOLUNTEER FIRE COMPANIES.

11 (a) LIABILITY PROTECTION.—A person who donates  
12 qualified fire control or rescue equipment to a volunteer  
13 fire company shall not be liable for civil damages under  
14 any State or Federal law for personal injuries, property  
15 damage or loss, or death caused by the equipment after  
16 the donation.

17 (b) EXCEPTIONS.—Subsection (a) does not apply to  
18 a person if—

19 (1) the person's act or omission causing the in-  
20 jury, damage, loss, or death constitutes gross neg-  
21 ligence or intentional misconduct; or

22 (2) the person is the manufacturer of the quali-  
23 fied fire control or rescue equipment.

24 (3) the person or agency modified or altered the  
25 equipment after it had been recertified by an author-



1        ized technician as meeting the manufacturer's speci-  
2        fications.

3        (c) PREEMPTION.—This section preempts the laws of  
4        any State to the extent that such laws are inconsistent  
5        with this section, except that notwithstanding subsection  
6        (b) this section shall not preempt any State law that pro-  
7        vides additional protection from liability for a person who  
8        donates fire control or fire rescue equipment to a volunteer  
9        fire company.

10       (d) DEFINITIONS.—In this section:

11           (1) PERSON.—The term “person” includes any  
12        governmental or other entity.

13           (2) FIRE CONTROL OR RESCUE EQUIPMENT.—  
14        The term “fire control or fire rescue equipment” in-  
15        cludes any fire vehicle, fire fighting tool, communica-  
16        tions equipment, protective gear, fire hose, or  
17        breathing apparatus.

18           (3) QUALIFIED FIRE CONTROL OR RESCUE  
19        EQUIPMENT.—The term “qualified fire control or  
20        rescue equipment” means fire control or fire rescue  
21        equipment that has been recertified by an authorized  
22        technician as meeting the manufacturer's specifica-  
23        tions.

24           (4) STATE.—The term “State” includes the  
25        several States, the District of Columbia, the Com-



1 monwealth of Puerto Rico, the Commonwealth of the  
2 Northern Mariana Islands, American Samoa, Guam,  
3 the Virgin Islands, any other territory or possession  
4 of the United States, and any political subdivision of  
5 any such State, territory, or possession.

6 (5) VOLUNTEER FIRE COMPANY.—The term  
7 “volunteer fire company” means an association of  
8 individuals who provide fire protection and other  
9 emergency services, where at least 30 percent of the  
10 individuals receive little or no compensation com-  
11 pared with an entry level full-time paid individual in  
12 that association or in the nearest such association  
13 with an entry level full-time paid individual.

14 (6) AUTHORIZED TECHNICIAN.—The term “au-  
15 thorized technician” means a technician who has  
16 been certified by the manufacturer of fire control or  
17 fire rescue equipment to inspect such equipment.  
18 The technician need not be employed by the State  
19 or local agency administering the distribution of the  
20 fire control or fire rescue equipment.

21 (e) EFFECTIVE DATE.—This section applies only to  
22 liability for injury, damage, loss, or death caused by equip-  
23 ment that, for purposes of subsection (a), is donated on  
24 or after the date that is 30 days after the date of the  
25 enactment of this section.

1 **SEC. 126. REPORT ON DATA-MINING ACTIVITIES.**

2 (a) REPORT.—Not later than one year after the date  
3 of the enactment of this Act, the Attorney General shall  
4 submit to Congress a report on any initiative of the De-  
5 partment of Justice that uses or is intended to develop  
6 pattern-based data-mining technology, including, for each  
7 such initiative, the following information:

8 (1) A thorough description of the pattern-based  
9 data-mining technology consistent with the protec-  
10 tion of existing patents, proprietary business proc-  
11 esses, trade secrets, and intelligence sources and  
12 methods.

13 (2) A thorough discussion of the plans for the  
14 use of such technology and the target dates for the  
15 deployment of the pattern-based data-mining tech-  
16 nology.

17 (3) An assessment of the likely efficacy of the  
18 pattern-based data-mining technology quality assur-  
19 ance controls to be used in providing accurate and  
20 valuable information consistent with the stated plans  
21 for the use of the technology.

22 (4) An assessment of the likely impact of the  
23 implementation of the pattern-based data-mining  
24 technology on privacy and civil liberties.

25 (5) A list and analysis of the laws and regula-  
26 tions applicable to the Department of Justice that



1        govern the application of the pattern-based data-  
2        mining technology to the information to be collected,  
3        reviewed, gathered, and analyzed with the pattern-  
4        based data-mining technology.

5            (6) A thorough discussion of the policies, proce-  
6        dures, and guidelines of the Department of Justice  
7        that are to be developed and applied in the use of  
8        such technology for pattern-based data-mining in  
9        order to—

10            (A) protect the privacy and due process  
11        rights of individuals; and

12            (B) ensure that only accurate information  
13        is collected and used or account for the possi-  
14        bility of inaccuracy in that information and  
15        guard against harmful consequences of poten-  
16        tial inaccuracies.

17            (7) Any necessary classified information in an  
18        annex that shall be available consistent with national  
19        security to the Committee on the Judiciary of both  
20        the Senate and the House of Representatives.

21        (b) DEFINITIONS.—In this section:

22            (1) DATA-MINING.—The term “data-mining”  
23        means a query or search or other analysis of one or  
24        more electronic databases, where—



1 (A) at least one of the databases was ob-  
2 tained from or remains under the control of a  
3 non-Federal entity, or the information was ac-  
4 quired initially by another department or agen-  
5 cy of the Federal Government for purposes  
6 other than intelligence or law enforcement;

7 (B) the search does not use personal iden-  
8 tifiers of a specific individual or does not utilize  
9 inputs that appear on their face to identify or  
10 be associated with a specified individual to ac-  
11 quire information; and

12 (C) a department or agency of the Federal  
13 Government is conducting the query or search  
14 or other analysis to find a pattern indicating  
15 terrorist or other criminal activity.

16 (2) DATABASE.—The term “database” does not  
17 include telephone directories, information publicly  
18 available via the Internet or available by any other  
19 means to any member of the public, any databases  
20 maintained, operated, or controlled by a State, local,  
21 or tribal government (such as a State motor vehicle  
22 database), or databases of judicial and administra-  
23 tive opinions.



1 **SEC. 127. SENSE OF CONGRESS.**

2 It is the sense of Congress that under section 981  
3 of title 18, United States Code, victims of terrorists at-  
4 tacks should have access to the assets forfeited.

5 **SEC. 128. PATRIOT SECTION 214; AUTHORITY FOR DISCLO-**  
6 **SURE OF ADDITIONAL INFORMATION IN CON-**  
7 **SECTION WITH ORDERS FOR PEN REGISTER**  
8 **AND TRAP AND TRACE AUTHORITY UNDER**  
9 **FISA.**

10 (a) RECORDS.—Section 402(d)(2) of the Foreign In-  
11 telligence Surveillance Act of 1978 (50 U.S.C. 1842(d)(2))  
12 is amended—

13 (1) in subparagraph (A)—

14 (A) in clause (ii), by adding “and” at the  
15 end; and

16 (B) in clause (iii), by striking the period at  
17 the end and inserting a semicolon; and

18 (2) in subparagraph (B)(iii), by striking the pe-  
19 riod at the end and inserting “; and”; and

20 (3) by adding at the end the following:

21 “(C) shall direct that, upon the request of  
22 the applicant, the provider of a wire or elec-  
23 tronic communication service shall disclose to  
24 the Federal officer using the pen register or  
25 trap and trace device covered by the order—

1           “(i) in the case of the customer or  
2 subscriber using the service covered by the  
3 order (for the period specified by the  
4 order)—

5           “(I) the name of the customer or  
6 subscriber;

7           “(II) the address of the customer  
8 or subscriber;

9           “(III) the telephone or instru-  
10 ment number, or other subscriber  
11 number or identifier, of the customer  
12 or subscriber, including any tempo-  
13 rarily assigned network address or as-  
14 sociated routing or transmission infor-  
15 mation;

16           “(IV) the length of the provision  
17 of service by such provider to the cus-  
18 tomer or subscriber and the types of  
19 services utilized by the customer or  
20 subscriber;

21           “(V) in the case of a provider of  
22 local or long distance telephone serv-  
23 ice, any local or long distance tele-  
24 phone records of the customer or sub-  
25 scriber;



1 “(VI) if applicable, any records  
2 reflecting period of usage (or sessions)  
3 by the customer or subscriber; and

4 “(VII) any mechanisms and  
5 sources of payment for such service,  
6 including the number of any credit  
7 card or bank account utilized for pay-  
8 ment for such service; and

9 “(ii) if available, with respect to any  
10 customer or subscriber of incoming or out-  
11 going communications to or from the serv-  
12 ice covered by the order—

13 “(I) the name of such customer  
14 or subscriber;

15 “(II) the address of such cus-  
16 tomer or subscriber;

17 “(III) the telephone or instru-  
18 ment number, or other subscriber  
19 number or identifier, of such customer  
20 or subscriber, including any tempo-  
21 rarily assigned network address or as-  
22 sociated routing or transmission infor-  
23 mation; and

24 “(IV) the length of the provision  
25 of service by such provider to such



1 customer or subscriber and the types  
2 of services utilized by such customer  
3 or subscriber.”.

4 (b) ENHANCED OVERSIGHT.—Section 406(a) of the  
5 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.  
6 1846(a)) is amended by inserting “, and the Committee  
7 on the Judiciary of the House of Representatives and the  
8 Committee on the Judiciary of the Senate,” after “of the  
9 Senate”.

## 10 **TITLE II—TERRORIST DEATH** 11 **PENALTY ENHANCEMENT**

### 12 **SEC. 201. SHORT TITLE.**

13 This title may be cited as the “Terrorist Death Pen-  
14 alty Enhancement Act of 2005”.

## 15 **Subtitle A—Terrorist Penalties** 16 **Enhancement Act**

### 17 **SEC. 211. DEATH PENALTY PROCEDURES FOR CERTAIN AIR** 18 **PIRACY CASES OCCURRING BEFORE ENACT-** 19 **MENT OF THE FEDERAL DEATH PENALTY** 20 **ACT OF 1994.**

21 (a) IN GENERAL.—Section 60003 of the Violent  
22 Crime Control and Law Enforcement Act of 1994, (Public  
23 Law 103-322), is amended, as of the time of its enact-  
24 ment, by adding at the end the following: